



# U.S. Department of Energy DIRECTIVES

**User: DoxAdmin - DOE-Directives Administrator - Comments Report**

**Document type:** DOE-Directives

**Document:** DOE O 251.1D, Departmental Directives Program, Review and Comment

## Overall Comments

### Major comment from Dave Jensen for Bonneville Power Administration

The Bonneville Power Administration (BPA) appreciates the opportunity to provide comments on the October 16, 2014 draft update to the DOE Order on the Departmental Directives Program. BPA provides the following "Major" comments on draft DOE O 251.1D.

BPA continues to strongly support what we understand to be the ongoing Department of Energy (DOE) policy that DOE orders should be drafted recognizing the mission differences among the various DOE elements and that a "one size fits all" policy is not an appropriate, thoughtful approach for DOE orders. Since its implementation on 1/15/2009, we believe DOE Order O 251.1C has worked well to provide guidance to order drafters to carefully consider the nature of applicability to each DOE element.

Consistent with that baseline consideration that "one size does not fit all," BPA believes Section 4.D (4) Applicability in DOE 251.1C, should be included in draft DOE O 251.1D. Without that section, the only remaining applicability guidance for order drafters would be the Directives Process Appendix C. 1.c.(1) guidance: a "justification memorandum must specify which Departmental elements, offices or organizations the subject directive covers, and indicate how those elements, offices, and organizations have been involved at this stage." We assume the elimination of Section 4.D. (4) was an oversight and does not portend a possible reapplication of a one size fits all approach to applicability of DOE orders. Given the unique nature of BPA's business within DOE and its statutory authorities, order drafters need to have this guidance in order to create DOE orders that actually are substantively accurate.

Please include the following language, currently Section 4.D. (4) of DOE O 251.1C, in the draft proposal of DOE O 251.1D:

"(4) Applicability: Organizations developing a directive are responsible for identifying specifically which Departmental elements need to be covered by the proposed directive. These organizations should not approach development of directives from a one size fits all perspective. Departmental elements and contractors covered by directives should make full use of exemptions and equivalencies, as appropriate, to avoid unnecessary burden."

Given our understanding that the proposed DOE O 251.1D presumes that order drafters will evaluate the applicability of each order as to each individual DOE element, we believe Section 3.a. (2) is unnecessary and should be deleted, similar to the BPA-specific provisions which were deleted.

BPA does have legal authorities and regulatory and functional responsibilities that are unique and unlike those in any other part of the DOE. The BPA Administrator fully intends to adhere to BPA's organic statutes in BPA's business operations. Further, BPA believes that DOE O 251.1D should state that "BPA statutes need to be considered, by the Office Primary Interest (OPI), in dialogue with BPA, when DOE order writers are considering whether and how BPA should be subject to any DOE order."

Again, BPA appreciates the opportunity to comment on draft DOE Order 251.1D. Questions regarding these comments should be directed to Debra Smiley who can be contacted on 503-230-3084.

The following are some examples of BPA's organic statutes which are important to BPA business operations. In addition, the General Accountability Office (GAO) has an excellent summary of BPA's uniqueness in the entire federal government in their Red Book:

- GAO Red Book, chapter 15 includes many descriptions of BPA's hybrid government corporation structure and its substantial unique authorities which give it the autonomy to operate its operations in a sound business manner. Footnote 54 is just one summary of BPA's uniqueness: "The Bonneville Power Administration (BPA) " is a true hybrid. It is not a government corporation although it has many of the powers of one and operates from a revolving fund. The Office of the Administrator of BPA is an office in the Department of Energy and is under the jurisdiction and control of the Secretary of that department, although BPA is subject to many but not all of the provisions of the Government Corporation Control Act. Also, the Administrator's contracting activities are governed by its own unique statutory and

regulatory requirements."

- BPA was formed and received substantial authorities and its initial appropriation under the **Bonneville Project Act of 1937 (P.L. 75-329)**, which also included authorities relating to hiring of employees and experts.
- When Congress enacted the **Federal Columbia River Transmission System Act of 1974 (P.L. 93-454)**, BPA received self-financing authority. It recognized that BPA could not function effectively unless it was accorded some of the budgetary and financial flexibility normally given to government corporations and that the long-term capital investments required of an electric utility did not lend themselves to the vagaries of the annual appropriations process. BPA also received then, and through subsequent appropriations acts borrowing authority, now at \$7.7 billion.
- BPA is unique, even among the PMA's, in that it receives no annual taxpayer appropriations and is funded solely through ratepayers.
- BPA also has broad contract authority from 1937 and is not under the FAR or DOE DEAR procurement systems. BPA does not use DOE DEAR based CRD's in its procurement or DOE orders implementation work.
- BPA can acquire, sell, lease, or dispose of real and personal property and settle claims.
- BPA can incur obligations over a multiple year planning horizon and in excess of borrowing authority and reserves. As such, the DOE does not provide BPA with any funds allotment.
- BPA manages its self-financed funds and since receiving self-financing in 1974 has maintained a close working relationship with the U.S. Treasury Department.
- While BPA is not designated as a government corporation, its statutory powers, under the **Government Corporation Control Act (GSCCA)(31 U.S. Code Subtitle VI, Chapter 91)**, are comparable to those of a wholly owned government corporation, governed by an Administrator, not a Board of Directors. BPA is subject to the GSCCA and its overall purpose limitation but also has the same broad spending discretion as a government corporation. (Red Book at 15-160)
- BPA's budgets include only estimates of the use of BPA's permanent authority and not (except in very limited circumstances) requests for approval for the expenditure of its self-financed funds. BPA has not requested any taxpayer funded appropriations since 1974---40 years ago---three years prior to BPA transfer into the newly created DOE (**DOE Organization Act P.L. 95-91**).
- The **Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177)**, known as the Gramm-Rudman-Hollings Amendment, makes it clear the BPA self-financing supports "mandatory" activities on behalf of its rate-paying power and transmission customers, which under federal budget law are legally separate from "discretionary" U.S. taxpayer funded activities and are not subject to general budget sequestration as most tax-payer funded annual appropriations are.
- **The Energy and Water Development Appropriations Act of 1989 (P.L. 100-371)** makes BPA multi-year financing flexibility, planning certainty and operational flexibility clear by stating that, "Without fiscal year limitation, the Bonneville Power Administration continues to be authorized to incur obligations for authorized purposes and may do so in excess of borrowing authority and cash in the Bonneville Power Administration fund."
- **The National Energy Policy Act 1992, regarding Federal projects in the Pacific Northwest (P.L. 102-486, 16 USC 839-1)** makes clear that without further appropriation and without fiscal year limitation, BPA is able to provide multi-year BPA self-financed funding for the power (operating and capital) cost share of Pacific Northwest Projects of the Department of the Interior (Bureau of Reclamation) and the Department of the Army (Corps of Engineers) and those agencies are able to accept and use the funds the BPA Administrator provides. This is clearly unique multi-year planning, financial planning and operational flexibility that tax-payer funded appropriations agencies do not have---the ability to provide multi-year self-financed funding certainty to two other Cabinet Level Agencies.
- **The Pacific Northwest Electric Power Planning and Conservation Act (Regional Power Act) (P.L.96-501) of 1980** among other things provided: BPA with electric utility responsibility when customers request electric load; that BPA would directly set its interim power and transmission rates prior to their BPA transmittal to the Federal Energy Regulatory Commission (FERC) for final action; and that BPA "shall maintain comprehensive programs" of "public information" and consultation"...to incur widespread public involvement in the formulation of regional power policies" and "inform the Pacific Northwest public on major regional power issues" and "obtain public views concerning major regional power issues" so that, over the last 30 years, BPA has actively discussed its power, transmission, conservation, fish and wildlife and other self-financed programs and projected funding levels with its customers and interested regional and other parties and done so during the various times of the year and federal budget cycle. That is truly a unique financial difference from a normal tax-payer appropriation funded agency which would be expected to embargo such information during the budget formulation period.

#### Response:

*Accept with Modifications*

Retained "One size fits all" language and exemption and equivalency language.

#### Major comment from Steven Petras for HSS-DR-DNFSB

DNFSB Comments:

[C] Draft DOE Order 251.1D should contain a requirement for the office of primary interest (OPI) or the Directives Review Board (DRB) to ensure commitments made by the Secretary of Energy regarding reviewing, revising, and/or developing new DOE directives are faithfully executed. When the Board makes recommendations to the Secretary of Energy to review, revise, and/or develop new DOE directives, and the Secretary of Energy accepts the Board's recommendations, the Secretary of Energy develops an Implementation Plan. When directives are revised or created, DOE does not have any requirement to ensure the Secretary's commitments to the Board are completed as described in the Recommendation or Implementation Plan.

[S] Draft DOE Order 251.1D should contain a requirement for the OPI or DRB to ensure commitments made by the Secretary of Energy regarding reviewing, revising, and/or developing new DOE directives are faithfully executed and completed.

**Response:**

*Accept with Modifications*

Retained "One size fits all" language and exemption and equivalency language.

**Suggested comment from Bill Schwartz for Headquarters HG**

This package represents the official, consolidated comments of **Poli A. Marmolejos, Director**

No Comment

**Suggested comment from Emily Jackson for Headquarters LM**

No Comment

**Suggested comment from Kevin Hagerty for Headquarters MA**

No Comment

**Suggested comment from Emily Mishoe for Headquarters NA**

This package represents the official, consolidated comments of **Cathy Tullis**

**Included comments:**

**Mark Roman for NA-70 Defense Nuclear Security**

Any and all Departmental Directives should include a summary of change section highlighting the differences from the prior version of the directive. This would allow for focused, and perhaps expedited, review of draft directives.

**Response:**

*Reject*

**Suggested comment from PK Niyogi for Headquarters NE**

No Comment

**Major comment from Jennifer Kelley for Headquarters SC**

This package represents the official, consolidated comments of **Joe McBrearty, Deputy Director for Field Operations**

Technical Standards should be removed from this Order as a type of directive. They are not directives. The only mention within 251.1D of technical standards should be to: (1) note in a Justification Memo if a new or revised directive will invoke a technical standard, (2) discussion of how a directive can invoke a technical standard, (3) process for simultaneous review of a directive and the technical standard it invokes, and (4) include definitions on technical standard and invoked technical standard so the information within the Order of the correlating process of directive and invoked technical standard would be more easily understood.

**Response:**

*Accept with Modifications*

Agree with all except # 2, that would be found in the definition of "Invoked Technical Std" and not within the body of the Order.

**Suggested comment from Cecelia Kenney for Headquarters AU**

This package represents the official, consolidated comments of **Stephen Kirchhoff, Deputy Associate Under Secretary for Environment, Health, Safety and Security**

No Comment

**Suggested comment from Loretta Robinson for Headquarters HC**

No Comment

**Suggested comment from John Wall for Headquarters CF**

**Included comments:**

**SME phil.knopp@hq.doe.gov**

No Comment

**SME micheala.brown@hq.doe.gov**

No Comment

**Major comment from Bud Danielson for Headquarters CTA**

This package represents the official, consolidated comments of **Richard Lagdon**

Reinstate the Appd. E. for nuclear safety directives. Or, incorporate Appd. E into new Appd A.

The crosswalk is also incomplete as it is silent on this Appd. and its deletion.

**Response:**

*Reject*

Already found in DOE O 410.1. No need to duplicate. Will point users to O 410.1

CNS supports and considers the comments submitted by the Carl Sykes CNDS as CNS comments.

**Response:**

*Accept*

Comments were considered.

**1. PURPOSE****2. CANCELLATION****3. DEPARTMENTAL APPLICABILITY****Suggested comment from Emily Mishoe for Headquarters NA****Included comments:****SME [anna.valdez@nnsa.doe.gov](mailto:anna.valdez@nnsa.doe.gov)**

The word "assure" should be replaced here and throughout the document with the word "ensure". "Assure is to certify, to make sure, to pledge or promise, to affirm, to declare earnestly or positively, to cause to know surely and to encourage. The appropriate word, "ensure" is to make certain or make sure that something occurs.

**Response:**

*Accept*

**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 3b. If this Order DOES NOT apply to contractors then why does the cancellation section talk about CRDs by saying: Contractor requirements documents (CRDs) that have been incorporated into a contract remain in effect throughout the term of the contract unless and until the contract or regulatory commitment is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements.

This statement is normally placed in the cancellation sections of orders which do apply to contractors and orders that have CRDs. This Order DOES NOT have a CRD.

**Response:**

*Accept*

**Major comment from Cecelia Kenney for Headquarters AU**

Revise to state: "Contractors. This Order does not apply to contractors. Contractors may provide input during directives development and may provide comments on draft directives in accordance with the Department's RevCom process."

While contractors do not have explicit responsibilities in the directives process, they do play an important role that should be clearly acknowledged. [AU-1, AU-30, AU-50]

**Response:**

*Accept with Modifications*

Added responsibility to the Secretarial Officer to establish procedures for soliciting the views of their contractors. [5.c. (5)]

**Major comment from Steve Duarte for Headquarters GC****Included comments:**

**SME Eric.Mulch@hq.doe.gov**

Section c(3) is unclear as drafted. suggest the following rewording to clarify intent:

Exemption. Procurement Management System is exempt. However, DOE heads of contracting activities (HCAs) will be afforded a reasonable opportunity to review and comment on draft Acquisition Letters that provide guidance, instruction, or direction to contracting officers, where such guidance, instruction or direction significantly affects contract terms and conditions of management and operating (M&O) contracts and other site and facility management contracts. For example, HCAs will be afforded review where the draft Acquisition Letter would require the contracting officer to modify an existing contract clause or add a contract clause during an on-going contract term, and where guidance, instruction, or direction set out in the draft Acquisition Letter would materially impact the contractor's performance, materially impact the contract funding, or change the rights and remedies of the parties. HCA review will be provided concurrent with any other standard internal reviews (i.e., Procurement Executives, Procurement Counsels) for a particular draft Acquisition Letter.

**Response:**

*Accept*

#### **Suggested comment from Sara Frey for Western Area Power Administration**

-->(3)

**Exemption. Procurement Management System is exempt. However, DOE heads of contracting activities (HCAs) will be afforded a reasonable opportunity to review and comment on draft Acquisition Letters that provide guidance, instruction, or direction to contracting officers, where such guidance, instruction or direction significantly affects contract terms and conditions of management and operating (M&O) contracts and other site and facility management contracts. In those situations where the Senior Procurement Executives provide guidance, instruction, or direction to contracting officers, including where such guidance, instruction or direction may significantly affect contract terms and conditions of ~~management and operating (M&O) contracts~~ and other site and facility management contracts, the Procurement Management System will be exempt.**

-->(a)

DOE ~~heads of contracting activities~~ (HCAs) will be afforded reasonable opportunity to review and comment on any such guidance, instruction or direction, including but not limited to draft Acquisition Letters (e.g., where the draft Acquisition Letter would require the contracting officer to modify an existing contract clause or add a contract clause during an on-going contract term).

-->(b)

Other examples would be instances where guidance, instruction, or direction set out in the draft Acquisition Letter would materially impact the contractor's performance, materially impact the contract funding, or change the rights and remedies of the parties. This opportunity will be provided so that the HCA's review will be conducted concurrent with any other standard internal reviews (i.e., Procurement Executives, Procurement Counsels) for a particular draft Acquisition Letter.

**Response:**

*Reject*

Language provided by Procurement Office.

#### **Major comment from Bud Danielson for Headquarters CTA**

Include requirements to provide the CTAs with acquisition letters for review of potential nuclear safety impacts.

**Response:***Reject*

This requirement needs to be discussed with MA-60.

**Major comment from John Wall for Headquarters CF**

The proposed changes to DOE Order 251.1C, *Departmental Directives Program* to remove the exemption for the Financial Management Handbook, previously called the Accounting Handbook must be restored. The CFO needs the flexibility to change the handbook as OMB, Treasury, or other external parties, change federal accounting or financial reporting requirements or standards, or as emerging issues are identified as a result of IG, GAO, or other external reviews or audits. The exemption was established in the previous order because the order update process precluded the timely implementation of required and other important accounting and financial reporting changes.

**Response:***Accept*

Language was added.

**Suggested comment from Emily Mishoe for Headquarters NA****Included comments:**

Henry Van Dyke for NA-General Counsel

**Add highlighted words:**

(6)

**Exemption. Guidance, direction and instruction**

**issued by the Department's General Counsel (or the NNSA's General Counsel) to, or concerning the management of, the Department's (or NNSA) attorneys and the legal services and advice they render.**

**Response:***Accept***4. REQUIREMENTS****Major comment from Steve Duarte for Headquarters GC****Included comments:**

**SME robin.henderson@hq.doe.gov**

The previous version of this Order said that no directive (other than 251.1C) takes precedence over other directives. This would be useful to to retain--I just reviewed a draft Order that said that it takes precedence over other Orders. Such provisions would cause a great deal of confusion. In addition, there should be a provision stating that directives must not have provisions that conflict with other directives.

**Response:***Accept***Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 4a(2). Add second sentence to state: This Order is the single methodology for creating and promulgating

expectations and requirements for federal staff and our contractors to ensure that an enterprise risk management approach has been applied to our management system in an effort to ensure work is done safely and efficiently while protecting the workers, public and environment, and the interests of the taxpayer.

**Response:**

*Reject*

Removed ERM from the directives process.

**Major comment from Emily Mishoe for Headquarters NA****Included comments:****SME carl.sykes@nnsa.doe.gov**

Mandating that directives covering high risk functions such as safety/security MUST specify how the requirements must be met is problematic. It would be difficult to determine if this requirement was met as there can always be additional layers of specificity to any requirement. DOE has multiple guides that provide acceptable methods for achieving compliance; a requirement such as this one could result in safety/security orders becoming bloated to the point of absorbing entire guides.

Recommend this requirement be re-written to state that directives covering high risk functions must clearly articulate specific implementation requirements that are necessary to achieve the objective of the requirement(s).

**Response:**

*Accept with Modifications*

Language modified.

**Robert Park for Lawrence Livermore National Laboratory**

The language in 4.a(4) appears to mandate defining the method of accomplishment for high risk activities and defines safety and security as high risk. Therefore, this will be interpreted by the DOE directive writers that all safety and security Orders must specify how to meet the requirements rather than considering each on a case-by-case basis. Please remove the language/requirement "must specify how the requirements must be met" for safety and security.

**Response:**

*Accept with Modifications*

Language modified.

**SME robert.vrooman@nnsa.doe.gov**

The applicability of the requirement for mandating how to fulfill requirements is very vague and nebulous. "Directives that cover high risk functions, such as safety and security..." is subject to numerous interpretations, which makes the requirement to provide the "how" unenforceable. The same is true of, "areas that require consistency...". Besides, it is not always necessary to specify the "how", nor is it always desirable or even possible to do so. Change "...and information technology must specify how the requirements must be met" to "...and information technology may specify how the requirements must be met."

**Response:**

*Accept with Modifications*

Language modified.

**Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 4a(4). The last sentence of this paragraph effectively requires safety, security, financial reporting, information technology, and other high risk functions to always specify how requirements must be met. This is inconsistent with current practice, and would require extensive revision of other directives and process changes. Recognizing that there are indeed times when it is appropriate to specify how requirements are to be met, I recommend changing paragraph 4 to read:

(4) Directives must be written to specify the goals and requirements that must be met while refraining from mandating *how* to fulfill them to the highest extent possible. Directives that cover high risk functions, such as safety and security or areas that require consistency such as financial reporting and information technology **must may at times** specify how the requirements must be met.

This would provide the flexibility to specify how requirements are to be met when it is warranted, but not require it at all other



times

**Response:**

*Accept with Modifications*

Language modified.

**Major comment from Cecelia Kenney for Headquarters AU**

The second sentence establishes a requirement for certain directives to specify how the requirements must be met. This is an overstatement. Revise second sentence to:

"Directives that cover high risk functions, such as safety and security or areas that require consistency such as financial reporting and information technology may, when necessary, specify how the requirements must be met." [AU-1, AU-30, AU-50]

**Response:**

*Accept*

[4.a.(5)]

**Suggested comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] This section states, "Requirements in directives must not duplicate or be inconsistent with applicable laws, regulations, or national standards." Appendix B, Section 2.d. states, "Must contain requirements unique to DOE and must not duplicate information from another *directive*, law, regulation or national standard." The requirement to not duplicate information in Appendix B includes "directive." This should be included in Section 4.a.(6).

[S] Suggest revising Section 4.a.(6). To include "other directives" in the list of items.

**Response:**

*Accept with Modifications*

DNFSB Comments:

[C] Laws, regulations, and national standards often cover broad topical areas, so specifying what part of the document is applicable in the particular directive could help make implementation more efficient and effective. Additionally, these documents are revised or otherwise changed from time to time, so knowing which version of the document the directive is invoking may help alleviate confusion when laws, regulations, or national standards are changed.

[S] Invoking requirements by reference to other documents ought to clearly identify, to the extent necessary, the specific parts of the law, regulation or national standard, and the version of the document should also be identified. Changes to laws, regulations, and national standards should be evaluated to ensure that the desired outcome of the requirement is preserved and then revised accordingly.

**Response:**

*Reject*

**Major comment from Steve Duarte for Headquarters GC**

**Included comments:**

**SME robin.henderson@hq.doe.gov**

The previous version of the Order had the following paragraph:

"Duplication of Laws, Regulations, or National Standards. Departmental directives shall not duplicate or be inconsistent with applicable laws or regulations. To the extent possible, directives also should be written so that they are consistent with or incorporate widely accepted national standards." Para. 4.d(2).

The omitted language is a more accurate reflection of the law. The National Technology Transfer and Advancement Act of 1995 requires federal agencies to "use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments" unless compliance with this requirement "is inconsistent with applicable law or otherwise impractical." 15 USC 272 note.



The proposed deletion of the language from the previous version of the Order would make DOE's compliance with this statutory requirement unlikely. In addition, compliance with any particular national standard is not required unless invoked by a statute or regulation (or DOE directive), so the proposed language is confusing.

In addition, the NDAA for 2013 added a new statutory provision requiring the "Administrator [of NNSA] and the Secretary of Energy [to] ensure that the methods for assessing, certifying, and overseeing nuclear safety at [NNSA national security laboratories and the nuclear weapons production facilities; and EM defense nuclear facilities] use national and international standards and nuclear industry best practices, including probabilistic or quantitative risk assessment if sufficient data exist." 50 USC 2735. This new legal requirement should be reflected in the Requirements of DOE O 251.1D.

**Response:**

*Accept*

Added language found in DOE O 251.1C to 4.a.(7)

**Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 4(a)6 should be appended with an additional statement that National Standards should be reviewed prior to the development or revision of DOE Directives, and where appropriate, be incorporated by reference. The Quality Assurance Order is a good example where select consensus standards are listed as acceptable means of satisfying the requirements.

**Response:**

*Reject*

Part of the process is to review national standards and add language to the JM.

**Major comment from Cecelia Kenney for Headquarters AU**

(6) Draft Order states: "Requirements in directives must not duplicate or be inconsistent with applicable laws, regulations, or national standards."

Revise to state: "Requirements in directives must not duplicate or be inconsistent with applicable laws and regulations, or national standards that DOE has been directed to apply."

The term "applicable national standards" is ambiguous. It could mean an approved national standard, of which there are many developed and approved by consensus bodies (organizations) for unique applications, that could be applied, or it could mean an approved national standard that DOE has been directed to use. Some of these standards may not be appropriate to DOE operations. The revision clarifies this point.

[AU-1, AU-10, AU-30]

**Response:**

*Accept*

[4.a.(7)]

(6) Add the following: "Directives may provide specific references to requirements in applicable laws, regulations, or national standards so that users are aware of the existing requirements and can find them easily." [AU-60]

**Response:**

*Reject*

Disagree with adding this statement. These items can be placed in the reference section that is required in the format.

(5) Revise to "Directives may establish performance-based management goals that align with program mission and objectives, and define performance measures where appropriate."

"Requirements" should not be equated with "goals" and "measures," which are often not enforceable. As currently written, this "requirement" is overly broad, ambiguous, and open to a wide variety of interpretations.

**Response:**

*Accept with Modifications*

[4.a.(5)]

**Major comment from Sharon Edge-Harley for Headquarters EA (Enterprise Assessment)**

SME [mari-jo.campagnone@hq.doe.gov](mailto:mari-jo.campagnone@hq.doe.gov) wrote:

- Clarification of section 4.a. (5) is needed to recognize that certain Departmental directives are related to high risk functions (such as safety and security) and that some of the requirements may be specific and not all will establish "performance-based management goals".
- Clarification of section 4.a. (6) is needed to recognize that there are thousands of national standards in existence that may not be suitable for adoption, in whole or part, by the Department of Energy and that a DOE directives may contain requirements that are duplicative or inconsistent with some standards. As it relates to national standards, suggest that this section be refocused on those invoked by DOE regulations, directives, or technical standards.

**Response:***Accept with Modifications*

Paragraph has been rewritten to limit this to where it is appropriate. Language has been added to clarify 4.a.6

**Suggested comment from Steve Duarte for Headquarters GC****Included comments:****SME Eric.Mulch@hq.doe.gov**

Revise (8) in accord with comments provided by MA-611

**Response:***Accept***Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 4a(8). Add in paragraph 4a(8) a sentence that is imbedded in the web link in paragraph 5i(4): "The CRD cannot refer a contractor to follow the requirements in the Order."

**RATIONALE:** The information accessed via the web link is non-static due to the hyperlink which creates a risk of its disassociation with the Order.

The benefits of stating this here are:

1. clarifies this very important element of the CRD,
2. ensures clarity on CRD content, and
3. provides transparency into the Writer's instructions.

**Response:***Accept with Modifications*

Language modified.

**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 4a(8). It has been the case that where DOE is given a requirement to approve a particular document (e.g., Fire Protection Program Description in DOE O 420.1C), there is no corresponding requirement in the CRD for the contractor to submit said document. We recommend that a statement be added in this paragraph as follows: "**All requirements** within the body of the Order must be delineated within the Contractor Requirements Document if they are also requirements for the contractor."

**Response:***Accept with Modifications*

Language modified.

**Major comment from Cecelia Kenney for Headquarters AU**

(7) Revise to: "When necessary, more detailed requirements that are applicable to Federal employees only must be provided in an appendix."

[AU-1, AU-20, AU-50]

**Response:**  
*Accept*

[4.a.(9)]

**Suggested comment from Cecelia Kenney for Headquarters AU**

(8) For clarity, reword this paragraph as follows: "A concise set of requirements for contractors must be provided in an attachment to the directive called the contractor requirements document (CRD). The CRD's requirements and responsibilities for contractors must be consistent with requirements and responsibilities for DOE personnel contained in the directive." [AU-20]

**Response:**  
*Accept with Modifications*

**Suggested comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] Reviews of directives are triggered by either the calendar or on a random basis. A third mechanism for directives review based on a performance metric for proper implementation may be helpful in fine tuning requirements if unforeseen implementation issues arise.

[S] Add a provision for a performance based review metric.

**Response:**  
*Reject*

Unnecessary detail. Can be understood with current wording. [4.a.(12)]

**Major comment from Cecelia Kenney for Headquarters AU**

(10) Revise to: "Directives must be reviewed every five years to ensure relevancy and accuracy, in accordance with Appendix D. The DRB may request OPIs to brief the DRB on their plans for review of directives, either because directives have not been reviewed within the five year review requirement or because significant concerns have been identified with selected directives."

The "annual agenda" is mentioned in Appendix D. Moving to five year reviews will make better use of Department resources. The requirement for "random" selection is not defined and open to interpretation. It is perfectly reasonable for the DRB to request specific OPIs to account to the DRB on specific directives where problems are identified. [AU-1, AU-10, AU-20, AU-30, AU-50]

**Response:**  
*Accept*

[4.a.(13)]

**Suggested comment from Cecelia Kenney for Headquarters AU**

(9) Delete "in the Departmental Directives Program" Unnecessary. [AU-10]

**Response:**  
*Accept*

Added "..developed and processed..."

**Suggested comment from Steve Duarte for Headquarters GC**

**Included comments:**

**SME Eric.Mulch@hq.doe.gov**

Revise 11 as follows:

- (11) Secretarial and Deputy Secretarial Policies containing requirements that cross organizational lines must be reviewed every four years for cancellation or conversion to be incorporated into the Departmental Directives Program (see process in Appendix E).

**Response:**

*Accept with Modifications*

**Suggested comment from Emily Mishoe for Headquarters NA****Included comments:**

**SME lynn.brownell@nnsa.doe.gov**

(11) suggested re-write:

...must be reviewed every four years or upon departure for cancellation or conversion...

**Response:**

*Reject*

GC provided appropriate language.

**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 4a(12). In order to be consistent with Appendix F and to better emphasize that unauthorized directives are to be reported to MA and addressed by the DRB, suggest that item (12) be changed to read "Unauthorized directives must be reported to the Office of Information Resources and implementation held until a Directives Review Board determination (see Appendix F)."

**Response:**

*Accept*

**Major comment from Cecelia Kenney for Headquarters AU**

(11) Change "four" to "five" for consistency with 4.a.(10). [AU-1]

**Response:**

*Accept*

[4.a.(12)]

**Major comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] While council representatives are clearly stakeholders and should be able to provide useful feedback, having them as non-voting advisory members of the DRB may inhibit the federal members from freely expressing opinions and concerns regarding performance of contractors vis a vis the requirements set forth in the current directive (DOE Order 251.1C) and any proposed changes.

[S] Soliciting feedback from non-voting advisors as in the current version of the directive would be more appropriate.

**Response:**

*Reject*

It was determined that these members, acting in advisory roles, are able to attend DRB meetings.

**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 4a(13). Suggest replacing "Membership is comprised of" with "Membership comprises" in the second sentence.

**Response:**

*Accept with Modifications*

Moved to 4.a.(1)

**Major comment from Bud Danielson for Headquarters CTA**

With the formation of the Under Secretary for Management and Performance office, MA and EM report to the same US. The offices of MA and EM have competing mission priorities in certain cases related to Directives given that MA "owns" the

Directives System and EM must promulgate and implement directives. MA already has the DRB Chair and Secretary positions. In order to have a fair and balanced DRB, EM must have a seat on the DRB.

**Response:**

*Reject*

S3 sits on the board and represents EM

It is inappropriate for contractors (i.e., National Laboratories Directors Council) to have a direct voice on the DRB (an inherently federal policy function). Having such access allows one set of contractors two avenues to influence policy, an option not available to M&O or EP&C contractors. The lab Directors already have final authority on comments submitted to REVCOM for their organization and can raise any issues regarding the Directive.

This undue influence on federal policy by contractors should be evaluated by GC and OIG to ensure it complies with laws and regulations.

**Response:**

*Reject*

It was determined that these members, acting in advisory roles, are able to attend DRB meetings.

**Major comment from Sharon Edge-Harley for Headquarters EA (Enterprise Assessment)**

SME [mari-jo.campagnone@hq.doe.gov](mailto:mari-jo.campagnone@hq.doe.gov) wrote:

- The Secretary's newly created Office of Enterprise Assessments (EA) is not listed as being represented on the DRB. Add in section 4.a. (13), a provision that the Director of the Office of Enterprise Assessments is a non-voting observer of the DRB and participates in DRB meetings on directives related to its established mission.

**Response:**

*Accept*

**Major comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] Implementing directives via contracts often takes much longer than 6 months. Having the 6 month point serve as a health check is a good idea, but a recurring implementation status update would be useful in gathering performance metrics on the effectiveness of implementation.

[S] Add provision of conducting a recurring status report until the directive is fully implemented by the applicable organizations.

**Response:**

*Accept with Modifications*

Added clear requirement for implementation and responsibility for PSO to implement. It is the responsibility of the Secretarial Officer to implement new requirements for Federal employees and instruct Contracting Officers to work with contractors. [4.b.(1) and 5.c.(7)]

**Major comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME [robert.vrooman@nnsa.doe.gov](mailto:robert.vrooman@nnsa.doe.gov)**

Item 4.b(2) seems like a good idea, but in reality it is an undefined and therefore unenforceable requirement. Does it mean on the contractor side, or on the Fed side, or both? Item 5.k allows up to 12 months to incorporate the CRD into the contracts. Generally, once a new or revised order is in the contract, an implementation plan is developed to govern implementation. So "fully implemented within twelve months of issuance" is unlikely to happen on the contractor side. What about on the Fed side? It seems doubtful that one could say the Feds are fully implemented before the contractor is. In an order like 420.1C, fully implemented requires the Feds to approve a number of contractor safety programs, which cannot happen before the contractor has implemented the order. Delete Item 4.b(2).

**Response:***Accept with Modifications*

The Order applies to Federal employees. Modified language. Extensions may be requested from OPIs for implementation.

**Jennifer Bitsie for Sandia Field Office**

-->b. Implementation of DOE Directives.

**-->(2) Requirements in new or revised directives must be fully implemented within twelve months of issuance, unless otherwise stated in the directive or with Contracting Officer and Contractor agreement. (examples include significant cost of implementation or execution timeline.)**

**Response:***Reject*

Reject, modified language. Only applies to Feds.

**Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 4b(2). The statement within paragraph 4b(2), as written, should be specific to federal requirements versus contractor requirements (CRD) within an order. The statement within paragraph 4b(2) is fine for requirement of federal offices/organizations; however, the determination of what constitutes a reasonable timeframe for implementation of new or revised requirements should not be predetermined by a set timeframe (12 months) or by an OPI dictating a timeframe within an order for contractor requirements. The specific conditions and current state of a facility may differ widely within the DOE complex requiring differing timeframes for full implementation in the most efficient and effective manner and in accordance with the risk(s) involved. Such conditions are known best by the Contracting Officer (CO) with support of onsite SMEs and therefore can and should be made by the CO. Recommended wording is provided as follows:

Paragraph 4b(2) Implementation of requirements.

(1) Federal requirements in new or revised directives shall be implemented within 12 months or as stated in the directive for federal requirements.

(2) Contractor (CRD) requirements in new or revised directives shall be implemented within 12 months or as agreed to by the contractor and the Contracting Officer.

**Response:***Accept with Modifications*

Language modified to be more specific to Federal employees and revised CO responsibility.

**Major comment from Cecelia Kenney for Headquarters AU**

(1) Revise to state: "Six months after the directive's approval, a progress report on the communications plan and the status of the directive's implementation must be presented at a DRB meeting." [AU-1, AU-10, AU-50, AU-60]

**Response:***Accept with Modifications*

Moved language to OPI responsibility.

**Major comment from Emily Mishoe for Headquarters NA****Included comments:**

SME [carl.sykes@nnsa.doe.gov](mailto:carl.sykes@nnsa.doe.gov)

- (3) Equivalencies may be requested in substitution for how to implement requirements.
- (4) Exemptions may be requested when not implementing one or more requirements

Both of these 'may' statements must be 'must' statements.

Rationale: Getting a exemption should not be optional.

**Response:**

*Accept*

Changed may to must.

**SME carl.sykes@nnsa.doe.gov**

It would be useful to establish a grace period for exemptions, to allow findings from reviews to be corrected.

Add an additional step: "When a non-compliance with a directive requirement is discovered, a grace period of no longer than 12 months is permitted for elements to come into compliance with applicable requirements without requesting an exemption, unless otherwise specified in the applicable directive. This is not a default or blanket exemption; during that period of time, the non-compliance remains grounds for applicable contractual or regulatory actions for failure to comply with requirements. The period is permitted to allow elements to focus on swiftly correcting an issue rather than processing paperwork to approve a condition that is being corrected promptly."

Rationale: In some cases, non-compliances have existed for years without affected organizations requesting an exemption. The exemption process allows the authorized risk acceptance official for the requirement to ensure that appropriate compensatory measures are in place so that the risk is acceptable.

**Response:**

*Reject*

The writer of directives requiring concurrence to an exemption tailor the language in the Order.

**Suggested comment from Cecelia Kenney for Headquarters AU**

(5) Editorial. Change the word "acquiring" to "seeking". Rationale: Acquiring could be construed to mean contractors will automatically be granted equivalencies/exemptions. [AU-1.2]

**Response:**

*Accept*

## **5. RESPONSIBILITIES**

**Major comment from Steve Duarte for Headquarters GC**

A DOE Policy is a directive. A DOE policy is policy. (3) is confusing as it mixes "Policy" with what should be "policy memoranda." If it is already a "Policy" it can't be converted. Only a "policy" can be converted to a "Policy"

**Response:**

*Accept*

**Suggested comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME anna.valdez@nnsa.doe.gov**

The tense in the responsibilities bullets, varies among the different positions. The tense should be the same for all.

**Response:**

*Reject*

**Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 5a(2). This is a major comment as it impacts the efficiency and effectiveness in carrying out the mission work of the Department: Having the Secretary of Energy approve the use of an expedited process is too high in the organization for it to be expedited at all. The Department's stated intent is to push responsibilities and authorities down to the lowest practical level. We need to be practical on this. The DRB sets the timeframes for processing directives so they can certainly decide when to use an expedited process for a page change or other focused directive change. The responsibility in 5a(2) should be deleted and assigned to the DRB members (see corresponding comment in Paragraph 5e.)

**Response:**

*Accept with Modifications*

The responsibility has been added to the DRB members, but the Sec may do this as well.

**Major comment from Cecelia Kenney for Headquarters AU**

5.a.(2) Revise to: "Approves an expedited process for directive development or revision, other than that described in Appendix C, when necessary."



To expedite the process, the number of steps may be significantly reduced. The DRB already has authority to approve different schedules. [AU-1, AU-60]

**Response:**

*Accept with Modifications*

The responsibility has been added to the DRB members, but the Sec may do this as well.

**Suggested comment from Cecelia Kenney for Headquarters AU**

5.a. As written, the Secretary's responsibilities are identical to those of the Deputy Secretary. Revise Secretary's responsibilities to the essential ones:

"(1) Issues and cancels Policy memoranda with requirements impacting more than one Departmental element.

"(2) Resolves impasses on proposed directives as requested." [AU-1, AU-30]

**Response:**

*Reject*

**Major comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME carl.sykes@nnsa.doe.gov**

For S-2 responsibility (4), delete 'or Central Technical Authorities.' Rationale: For publication of new or revised nuclear safety requirements, it is fundamental to the concept of the CTA that they are the central, technical authorities who must agree prior to the publication or revision of nuclear safety requirements. Creating an appeal process that allows the preparation authority to appeal a CTA decision to a different set of people undermines the authority of the CTAs, and passes the decision to a non-technical authority, and conflicts with the authority granted to the CTAs by the Deputy Secretary. This would undermine their function as the technical authorities that must be satisfied before nuclear safety requirements are issued or revised.

**Response:**

*Accept*

**Suggested comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME carl.sykes@nnsa.doe.gov**

For S-2 Responsibility #4, delete the word 'opposing'; the sentence doesn't need that modifier and it is unnecessarily combative.

**Response:**

*Accept*

**Major comment from Cecelia Kenney for Headquarters AU**

5.b.(4) Revise to "Resolves impasses on proposed directives when they occur between contending Secretarial Officers."

"Contending Secretarial Officers" is used in 5.d.(5) and the same term should be used throughout. Delegation is not necessary here - the Order establishes the responsibility. No mention of the CTA is necessary. [AU-1, AU-20]

**Response:**

*Accept with Modifications*

Provided clarification.

**Suggested comment from Sara Frey for Western Area Power Administration**

**Deputy Secretary.**

--> (4)

Resolves

impasses on proposed directives when they occur between the office of primary interest (OPI) and opposing Departmental elements, organizations or offices, or Central Technical Authorities **(Should this be lower case? Should office of primary interest be capitalized?)** upon delegation of such authority from the Secretary.

**Response:**

*Accept with Modifications*

**Major comment from Steve Duarte for Headquarters GC**

(3) "under their perview" Don't we want all secretarial officers or their designees to participate in all DRB activities, not just those "under their perview"

**Response:**

*Accept*

**Included comments:**

**SME robin.henderson@hq.doe.gov**

In paragraph (10), please delete "Program Counsel." The NNSA General Counsel is responsible for determining what member of his/her staff will work on these issues. It should not be dictated in a directive.

**Response:**

*Accept*

**Major comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME robert.vrooman@nnsa.doe.gov**

Item 5.c(6) seems like a good idea, but in reality it is an undefined and therefore unenforceable requirement. Does it mean on the contractor side, or on the Fed side, or both? Item 5.k allows up to 12 months to incorporate the CRD into the contracts. Generally, once a new or revised order is in the contract, an implementation plan is developed to govern implementation. So "fully implemented within twelve months of issuance" is unlikely to happen on the contractor side. What about on the Fed side? It seems doubtful that one could say the Feds are fully implemented before the contractor is. In an order like 420.1C, fully implemented requires the Feds to approve a number of contractor safety programs, which cannot happen before the contractor has implemented the order. Delete Item 5.c(6).

**Response:**

*Accept with Modifications*

Revised language.

**SME nathan.morley@nnsa.doe.gov**

5.c.(11) - Add that the CTA is consulted for those documents from DOE O 410.1 where the CTAs need to approve the document.

**Response:**

*Accept with Modifications*

Responsibility for the OPI.

**Suggested comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME nathan.morley@nnsa.doe.gov**

5.c.(6) is not a correct sentence. Add "each" following "Ensure."

**Response:**

*Reject*

**Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 5c(6)-(7). This is a major comment as it impacts the efficiency and effectiveness in carrying out the mission work of the Department: Having the Headquarters Secretarial Officers assigned the responsibility in paragraph 5c(7) to direct the COs as to which CRDs to put into which contracts is impractical and inefficient because it takes the fundamental portion of managing the requirements set away from the overall field function of managing the contracts. The Department's stated intent is to push responsibilities and authorities down to the lowest practical level. We need to be practical on this. The Secretarial Officers do not need to be bothered with this level of task and they will not have time and will not do it so then we will say one thing in our Order and do another. The responsibility in paragraph 5c(7) should be deleted and assigned to the Contracting Officers in the field whose function is to manage the contracts. The portion of paragraph 5c(7) related to timeframes is duplicative with that same responsibility in paragraph 5c(6) so it is not needed in paragraph 5c(7).

**Response:***Reject*

The responsibility lies with the Contracting Officer and the SO as the lead for the organization.

Paragraph 5c(6). Under Secretarial Officers paragraph 5c(6) it is not appropriate or reasonable to set a specific one year deadline for CRDs to be incorporated into contracts. The way the process typically works is that the site office provides the directive to the contractor who evaluates its impacts and provides a fiscal impact. Then a schedule is agreed upon for adoption into contracts. Recommend that paragraph 5c(6) be reworded to be consistent with the text suggested for paragraph 4b(2) better clarifying timeframes for Federal requirements and contractor requirements.

**Response:***Accept with Modifications*

Removed timeframe.

**Major comment from Cecelia Kenney for Headquarters AU**

5.c.(13) Change "four" to "five. [AU-1]

**Response:***Accept*

Secretarial Officers only perform these requirements when they act as OPIs, and thus these two requirements should be incorporated into Paragraph 4.1. Not all Secretarial Officers are OPIs (i.e., they do not "own" directives), and thus may never perform these "requirements" under this Order. [AU-20]

**Response:***Accept with Modifications*

Added "as appropriate".

**Suggested comment from Cecelia Kenney for Headquarters AU**

5.c.(4) Revise to remove weak verb "ensure":

"Provide directive writers with the necessary support to engage in efforts to process draft directives within the established timetables."

**Response:***Reject*

5.c.(6) Revise to remove weak verb "ensure":

"Implements requirements of new or revised directives within twelve months of issuance unless specified otherwise in the directives."

**Response:***Reject*

5.c.(11) Revise to: "Approve exemptions and equivalencies in accordance with Appendix A, including establishment of a documented process and consultation with the OPI."

This broadens the responsibility appropriately.

**Response:**

*Accept with Modifications*

**Major comment from Cecelia Kenney for Headquarters AU**

5.d.(8) Revise to: "In consultation with the DRB, makes the final decision regarding whether or not to forward directives for impasse decisions to the Secretary or Deputy Secretary."

As currently written, it is confusing what "final decision" is being made.

**Response:**

*Accept*

**Suggested comment from Cecelia Kenney for Headquarters AU**

5.d.(3), 5.f. (1) and (2) - Paragraph 5.d.(3) requires MA-1 to notify the CFO "when there is significant potential for budgetary or other resources to be necessary to implement requirements of a proposed directive." Paragraph 5.f.(1) calls for the CFO to participate "in DRB meetings involving directives for which financial impact analyses have been completed as requested." However, nowhere in the Order is there a provision whereby a financial impact analysis can be, or is, requested nor is this analysis a defined term. Clarify this seldom-used process or remove this discussion. [AU-20]

**Response:**

*Accept*

**Major comment from Steve Duarte for Headquarters GC**

(1) and (8) Non-governmental Advisory Members cannot "concur" on inherently governmental functions they may only "advise"

**Response:**

*Accept*

**Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 5e(2). This is a major comment as it impacts the efficiency and effectiveness in carrying out the mission work of the Department: The DRB sets the timeframes for processing directives so they can certainly decide when to use an expedited process for a page change or other focused directive change. It is inefficient and not necessary to have that responsibility assigned any higher in the organization. The responsibility in paragraph 5e(2) should be reworded to: "Establish timeframes for processing directives, including the use of an expedited process for page changes."

**Response:**

*Accept with Modifications*

Responsibility of DRB, Chair to establish timeframes and the DRB members may recommend. This includes expedited review.

**Major comment from Cecelia Kenney for Headquarters AU**

5.e. Delete "(including Advisory Members)." Since the Advisory Members are "non-voting," it is not appropriate for them to be part of the process by which the recommendations by the DRB described in this Paragraph are made. Some DRB member responsibilities indicate that the members "concur" on proposed directives; this is not an appropriate role for Advisory Members. The role of DRB members can be further addressed in DRB procedures. [AU-20]

**Response:**

*Accept with Modifications*

Provided language to clarify that non-voting members may not concur/ non-concur on actions.

5.e.(9) Revise to: "May recommend a directive for further review for relevancy and accuracy." [AU-1, AU-10, AU-20, AU-50]

**Response:**

*Accept*

5.e.(7) This new Subparagraph calls for the DRB members to "determine" when a proposed directive "appears to involve the

potential for significant budgetary or other resource impacts across the Department." However, there is no criteria provided for how "significant" is to be determined or what the DRB is supposed to do once it has determined that significant impacts are identified. Is this related to the "financial impact analysis" assigned to the CFO in Subparagraph 5.f.(1)? Clarify or remove this responsibility. [AU-20]

**Response:**

*Accept with Modifications*

Provided clarity of the procedures and a definition. [see Appendix G, definition 17]

5.e(6) Delete this paragraph and move the concept to Appendix C. See comment specific to Appendix C.

**Response:**

*Accept with Modifications*

Revised the language to add clarity to the procedure.

**Suggested comment from Cecelia Kenney for Headquarters AU**

5.e.(11) Revise to: "Consult with Secretarial Officers on Policy memoranda before recommending to the Deputy Secretary to either cancel or convert Policy memoranda into appropriate Departmental directives." [AU-1, AU-10, AU-20]

**Response:**

*Accept*

**Major comment from Cecelia Kenney for Headquarters AU**

5.f.(1) What are "financial impact analyses?" Can MA share examples of these that were prepared over the last 4 years? Who requests them? The DRB per Subparagraph 5.e.(7)? "Financial impact analyses" is not a defined term in Appendix G nor is it described in Appendix C. The purpose and use of such analyses need to be explained. Clarify or delete. [AU-20]

**Response:**

*Accept with Modifications*

Added definition for Financial Impact Analysis.

**Major comment from Emily Mishoe for Headquarters NA****Included comments:**

**SME carl.sykes@nnsa.doe.gov**

From the current DOE O 251.1C, the following sentence was deleted:

"Nothing in this Order should be construed as contrary to or rescinding the requirements, processes, roles and responsibilities previously published in DOE O 410.1."

This statement needs to be added back or revised to state, "Nothing in this Order should be construed as contrary to or rescinding the requirements, processes, roles and responsibilities published in DOE O 410.1 or successor documents."

Rationale: needed to clearly establish the authority of the Central Technical Authorities.

**Response:**

*Accept with Modifications*

Added lanugage to OPI (writer) reposnisibilities. CTA authority lies in DOE O 410.1, no need to repeat here, but will give guidance to use DOE O 410.1

**Major comment from Cecelia Kenney for Headquarters AU**

5.g. Revise to: "Provide comments and input on concurrences to applicable DRB member."

There is no need to provide a responsibility to adhere to DOE O 410.1 (issued August 28, 2007) as this is redundant to existing directive responsibilities. [AU-1, AU-10, AU-20, AU-30]

**Response:**  
*Accept*

**Major comment from Bud Danielson for Headquarters CTA**

Provide a concurrence or non-concurrence on all directives that affect or may affect nuclear safety.

**Response:**  
*Accept with Modifications*

"may affect" is not a clear term.

**Major comment from Steve Duarte for Headquarters GC**

(3) (5) Is it "Advisory Members" or "advisory members"? Please be consistent. (20) Also see above comment on "Policy memoranda"

**Response:**  
*Accept*

**Major comment from Emily Mishoe for Headquarters NA****Included comments:**

**SME nathan.morley@nnsa.doe.gov**  
5.h.(24) - CTA also needs to be notified.

**Response:**  
*Reject*

CTAs have access to the directives alert system.

**Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 5h(2). The Justification Memos need to be more closely reviewed prior to dissemination for comment throughout the department. Recently there was a JM that had a footnote at the bottom stating that the information provided had not been validated. A thoroughly reviewed JM should not leave MA-90 with that type of information shown. It should be resolved prior to anyone outside MA viewing the JM because inaccurate or invalid information damages the credibility of the directives program. Recommend that a thorough vetting of each JM be accomplished prior to dissemination for review and that the language be changed to "Ensures justification memoranda submitted by program offices meet content criteria and are accurate, correct, and information validated prior to submission to the DRB."

**Response:**  
*Reject*

That is a internal procedure issue. The language adds no value to the Order.

Paragraph 5h(20). The review of Secretarial Memos should be set for a six-week period of time. Both the Chu and Poneman memo reviews included 39 and 79 memoranda, respectively, and multiple leads in the broad topical areas had to do the reviews. So managerial leads are not inundated trying to get multiple reviews done so quickly and work them into their hectic schedules, if the time frame was extended for the Secretarial Memo reviews from 30 days to 45 days, then these massive reviews would be far easier to coordinate with everyone.

**Response:**  
*Reject*

This item is an internal procedure specific to MA-90 and the DRB. DRB members or Programs can request longer review time.

**Major comment from Cecelia Kenney for Headquarters AU**

5.h.(1) Revise to: "Manages the Departmental Directives Program processes, including establishment of templates for directives and directive action, in consultation with the DRB."

This establishes a mechanism for changes to these important templates, with oversight by the DRB. [AU-1, AU-20, AU-60]

**Response:***Reject*

These items are internal processes specific to MA-90.

5.h.(8) Revise to: "Identify to the DRB any draft directive that is 90 days past its due dates on the approved JM." The role of MA-90 should be to inform the DRB. The DRB should make decisions on putting directives "on hold" in accordance with 5.e.(6).

**Response:***Accept with Modifications*

This is a MA-90 responsibility, not the responsibility of DRB. Will inform the DRB of the decision.

5.h.(7) Editorial comment: Delete the semicolon; it is not necessary. [AU-20]

**Response:***Accept***Suggested comment from Cecelia Kenney for Headquarters AU**

5.h.(17) Revise to: "Coordinates with all Department elements to obtain names of DPCs."

Section 5.c.(9) already addresses "possessing sufficient knowledge and capabilities..." [AU-1, AU-10]

**Response:***Accept*

5.h.(21) "Post" don't "Ensure" [AU-10]

**Response:***Accept*

5.h.(19) Don't "Ensure" just "Publish" and get rid of when appropriate. [AU-10]

**Response:***Reject*

5.h.(13) Get rid of the computer jargon "review and comment tool" or say it once and give it the name RevCom, which everyone knows, then use it there after. [AU-10]

**Response:***Reject***Suggested comment from Sara Frey for Western Area Power Administration**

Director, Office of Information Resources.

-->(13)

**Manages the review and comment tool (Change to: Review and Comment Tool) ensuring affected parties have the opportunity to comment on draft directives.**

**Is the Review and Comment Tool described later?**

**Response:***Reject***Major comment from Steve Duarte for Headquarters GC**



**Included comments:****SME robin.henderson@hq.doe.gov**

For clarity, please modify the first sentence in (2) to read as follows: "For non-NNSA elements, works with the Office of the General Counsel and the Office of Management (Office of Acquisition and Project Management) in developing a CRD."

**Response:***Accept***Suggested comment from Emily Mishoe for Headquarters NA****Included comments:****Derek LaHouse for NA-Management and Budget**

(5) is not clear: "Prepares a detailed financial impact analysis, as requested by the DRB." Must the OPI complete a financial impact statement for all directives or only when requested by the DRB? Suggest rewritten as "When requested by the DRB, prepares a detailed financial impact analysis."

**Response:***Accept with Modifications*

Added clarification.

**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 5i(2). Recommend adding "in the NNSA Office of the General Counsel" to paragraph (2) to make in clear who "Program Counsel" is. Revise to read, "Solicits comments from Program Counsel in the NNSA Office of the General Counsel on draft directives prior to submitting the drafts for the first review and comment."

**Response:***Accept with Modifications*

Added 5.i.(4) to address NNSA.

Paragraph 5i(3). Is the intent still a single CRD coordinated with non-NNSA and NNSA offices? Please clarify in this section

**Response:***Accept with Modifications*

Added 5.i.(4) to address NNSA.

Paragraph 5i(13) should refer to Appendix D rather than C. Please revise.

**Response:***Accept***Major comment from Cecelia Kenney for Headquarters AU**

5.i.(2) Delete. Is "Program Counsel" different from "General Counsel"? This appears to be an unnecessary responsibility. GC involvement is addressed in 5.i.(3). If "Program Counsel" means "Program Council in the NNSA Office of General Counsel," this responsibility is not appropriate or necessary. OPIs can determine when they need legal advice. [AU-1, AU-10, AU-30]

**Response:***Accept with Modifications*

Sentence revised by GC

5.i.(12) Draft order states: "*Provides a progress report to the DRB on the effectiveness of the directive's communication plan six months after the directive has been approved.*"

The OPI is not responsible for directive implementation; the responsible line managers are typically responsible. The OPI can prepare a communication plan and report on its implementation; however the OPI is not the appropriate party to report on effectiveness of the communication plan or effectiveness of implementation. The OPI is not going to do independent assessment or solicit implementation status from the DOE program offices.

Change to: "*Provides a progress report to the DRB on implementation of the directive's communication plan six months after*"

the directive has been approved." [AU-1, AU-10, AU-30, AU-50]

**Response:**

*Accept with Modifications*

Added the phrase "as requested."

5.i.(13) Change "four" to "five" [AU-1]

**Response:**

*Accept*

**Suggested comment from Cecelia Kenney for Headquarters AU**

5.i.(3) Revise "Works with" to "Consults with" [AU-10]

**Response:**

*Accept*

5.i.(5) Revise first sentence to: "Prepares a financial impact analysis, if requested by the DRB." [AU-1, AU-10, AU-20, AU-50]

**Response:**

*Accept*

5.i.(6) Delete "Leads efforts to" [AU-10]

**Response:**

*Reject*

5.i.(7) Change to "Grants approval for extensions for comments on draft directives during review and comment, and notifies the Office of Information Resources." [AU-60]

**Response:**

*Accept*

5.i.(8) This is actually two separate items:

(8) Coordinates with the DOE Departmental Representative to the Defense Nuclear Facilities Safety Board (DNFSB), as appropriate.

(9) Using the prescribed directives process, documents the basis for resolution of all comments. [AU-10, AU-30]

**Response:**

*Accept*

5.i.(9) Revise to: "Adheres to the directives processing times or notifies the Office of Information Resources to describe reasons for deviations." [AU-10, AU-50]

**Response:**

*Accept with Modifications*

**Major comment from Sara Frey for Western Area Power Administration**

**Office of Primary Interest (Writer).**

-->(8)

**Coordinates with the DOE Departmental Representative to the Defense Nuclear Facilities Safety Board (DNFSB), as appropriate. Using the prescribed directives process, documents the basis for resolution of all comments.**

**Is this a separate requirement?****Response:***Accept*

Separated the requirements

**Suggested comment from Steve Duarte for Headquarters GC****Included comments:****SME Eric.Mulch@hq.doe.gov**

modify Contracting Officers section in accord with comments from MA-611

**Response:***Accept***Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 5k. Contracting Officers should be rewritten as follows to add CO responsibility to determine the timeframe for implementation of new or revised CRDs. (See comment provided for paragraph 4b(2) Implementation of requirements):

k. Contracting Officers.

(1) Incorporate CRDs into contracts within 12 months or within the timeframe stated in the Directive in contracts containing, DEAR 970.5204-2, Laws, Regulations, and DOE Directives, without alteration, unless the CRD specifies how alterations are to be determined and/or approved, or unless requirements are tailored per DEAR 970.5204-2.

(2) Determine the appropriate timeframe for implementation of new or revised contractor requirement directives (CRDs).

**Response:***Accept with Modifications*

Language provided by GC and MA-60.

**Major comment from Cecelia Kenney for Headquarters AU**

5.j.(2) Revise to: "Informs the OPI and DRB on DOE implementation plan commitments and other Secretarial commitments to the DNFSB that impact directives."

This is more complete and accurate, to ensure that Secretarial commitments to the DNFSB regarding directives are understood.

[AU-1. AU-1.1]

**Response:***Accept*

5.k. Revise to read:

"(1) Incorporate CRDs into contracts within 12 months or by due date established by the Secretarial Officer in contracts containing, DEAR 970.5204-2, Laws, Regulations, and DOE Directives, without alteration, unless the CRD specifies how alterations are to be determined and/or approved, or unless requirements are tailored per DEAR 970.5204-2.."

"(2) Incorporate CRDs into other applicable contracts within 12 months or by due date established by the Secretarial Officer, without alteration, unless the CRD specifies how alterations are to be determined and/or approved."

The requirements to restrict CRDs to M&O contracts and to contracts that use DEAR clause 970.5204-2 are not appropriate and must be removed. AU can not support a revision that restricts CRDs to only M&O contracts and to only contracts that use DEAR clause 970.5204-2. AU must have an ability to translate CRD afety, security, and classification requirements to all contractors to satisfy applicable laws and regulations. [AU-1, U-50]

**Response:***Accept with Modifications*

MA-60 provided language

**Suggested comment from Sara Frey for Western Area Power Administration****Directives Points of Contact**

-&gt;(4)

Obtain approval from Secretarial Officer before submitting comments on justification memoranda or directives into the directives review and comment tool. **(Change to: Directives Review and Comment Tool).**

**Response:***Reject***Major comment from Cecelia Kenney for Headquarters AU**

Approval Line Change "ELIZABTH" to "ELIZABETH". [AU-1]

**Response:***Accept***7. REFERENCES****Suggested comment from Emily Mishoe for Headquarters NA****Included comments:****SME anna.valdez@nnsa.doe.gov**

In the DOE Template for drafting an Order, the format is:

6. REFERENCES

7. DEFINITIONS

Suggest reversing your order to be consistent with the DOE template.

**Response:***Accept***Suggested comment from Jennifer Kelley for Headquarters SC**

Add additional reference to "DOE Order 252.1A Admin Chg 1, Technical Standards Program".

Add additional reference to 48 CFR Part 970.0470-1, " Department of Energy Directives - General".

Add additional reference to 48 CFR Part 970.5204-2, "Laws, Regulations, and DOE Directives".

Add additional reference to "Department of Energy Organization Act, Section 644 of Public Law 95-91, 42 USC 7254, which provides the authority of the Secretary to prescribe such procedural and administrative rules and regulations as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in the Secretary."

Paragraph 7c. Add to National Defense Authorization Act of FY 2013 reference, "Section 3120. Improvement And Streamlining of the Missions and Operations of the Department Of Energy and National Nuclear Security Administration.

**Response:***Accept with Modifications*

Added some of the recommended references.

**8. CONTACT. Questions concerning this Order should****Suggested comment from Steve Duarte for Headquarters GC**

Would it be wise to add a generic email address to submit concerns?

**Response:**

*Reject*

**EQUIVALENCY AND EXEMPTION PROCESS**

**Major comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME carl.sykes@nnsa.doe.gov**

Need to add a note that Central Technical Authority concurrence is required on exemptions or equivalencies to nuclear safety requirements identified in DOE O 410.1 or successor document.

Rationale: To prevent confusion on the need for CTA concurrence.

**Response:**

*Accept*

**SME carl.sykes@nnsa.doe.gov**

The reference to 'Secretarial Officer' needs to be revised to 'Secretarial Officer or designee'.

Rationale: The NNSA SO has designated approval for directives that do not establish an approval authority to the Field Office Managers. There is no need to elevate exemptions on minor issues to the SO

**Response:**

*Accept*

**Suggested comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME ruth.latulippe@nnsa.doe.gov**

Appendix A, paragraph 2: This paragraph states, "The Secretarial Officer or designee may grant an exemption..." However, the first line of the Appendix states, "When an organization seeks an equivalency or exemption, their Secretarial Officer may grant..." In addition, paragraph 1 states, "the organization seeking the equivalency or exemption must document the request in a memorandum to their Secretarial Officer." The "or designee" is not consistently mentioned. Consider adding "or designee" to the other sentences.

**Response:**

*Accept*

**SME carl.sykes@nnsa.doe.gov**

Suggest adding a Note that DOE STD 1083 provides a more detailed mechanism (though consistent with this appendix) for evaluating exemptions from 10 CFR 830 nuclear safety requirements that may be appropriate for complex or exemptions from requirements covering high consequence facilities/activities.

**Response:**

*Reject*

**Suggested comment from Cecelia Kenney for Headquarters AU**

Revise first sentence to: "The Secretarial Officer may grant an equivalency or exemption to the requirements in a DOE directive after consultation with the OPI."

**Response:**

*Accept*

**Major comment from Steven Petras for HSS-DR-DNFSB**

**DNFSB Comments:**

[C] This section states, "state whether a temporary or permanent exemption from the requirement is sought..." Appendix G, Page 2, 11. defines exemptions as "The release from one or more requirements in a directive." Exemptions, like directives, should be periodically reviewed to determine their relevancy and accuracy vice being granted permanently for perpetuity.

[S] Revise this section to remove the ability to grant permanent exemptions to requirements.

**Response:***Accept with Modifications*

Removed discussion of temporary and permanent exemptions. [App. A]

**Suggested comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] This section states, "explain the equivalency briefly." The term, "briefly" is subjective. An equivalency should be explained in its entirety vice "briefly." This will provide PSOs all the information necessary to make an accurate and informed decision regarding an equivalency.

In addition, the process in Section 1 is for equivalencies and exemptions; however, Section 1.b. does not explain what information is necessary for an exemption (if any).

[S] Suggest deleting the term, "briefly" from this section, and including a statement that this part is not applicable for an exemption.

**Response:***Accept***Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 1e. Is there really such thing as a permanent exemption?

Recommend that all equivalencies/exemptions have a required periodic review.

**Major comment from Cecelia Kenney for Headquarters AU**

Subparagraphs 1.a - 1.d address both equivalencies and exemptions while Subparagraphs 1.e and 1.f only address exemptions. For consistency and clarity, the following changes need to be made:

1.b.: Add "/exemption" after "equivalency"

1.c.: Add an "and" after the semicolon at the end of the sentence

1.d: Put a period at the end of the sentence

1.e.: Change wording to: "For exemptions:"

1.e.(1): Add text from former Subparagraph 1.e.

1.e.(2): Add text from former Subparagraph 1.f. with the following editorial changes: delete "the" before "workers" and insert

"during which" between "period" and "the exemption."

Alternately, separate the descriptions of the exemption and equivalency processes. [AU-20, AU-30]

**Response:***Accept with Modifications*

Add new 1.g: "describe conclusions and recommendations from the OPI review of the exemption/equivalency and resolution of recommendations." [AU-30]

**Response:***Accept***Suggested comment from Cecelia Kenney for Headquarters AU**

1.f. Change "...adequate safety and health and protection of the public, the workers, and the environment..." to "...adequate protection of the public, the workers, and the environment..." The term "adequate safety and health" is not clear or appropriate. [AU-10]

**Response:***Accept***Major comment from Steven Petras for HSS-DR-DNFSB**

**DNFSB Comments:**

[C] This section does not require the Secretarial Officer to engage the Central Technical Authorities (CTAs) regarding concurrence on exemptions for directives listed in DOE Order 410.1 A, Attachment 1, *Directives (Latest Version) Requiring Central Technical Authority Concurrence Prior to Granting Exemptions or Exceptions*. DOE defined this role for CTAs as part of its implementation of Recommendation 2004-1.

[S] Include a requirement in Appendix A of draft DOE Order 251.1D for the Secretarial Officer to get Central Technical Authority concurrence on any directive listed in DOE Order 410.1, Attachment 1.

**Response:**

*Accept*

[5.g]

**DNFSB Comments:**

[C] In Section 2, all three factors should be true before the Secretarial Officer or designee may grant an exemption. The "or" at the end of bullet 2.b. implies that only one of the three factors needs to be true.

[S] Either change "or" to "and," or delete the "or."

**Response:**

*Accept*

App A

**Major comment from Steve Duarte for Headquarters GC****Included comments:****SME robin.henderson@hq.doe.gov**

Please change "or" to "and" in 2.b. All three elements should be present for exemptions to be granted.

**Response:**

*Accept*

**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 2. Recommend changing the "or" which connects the three conditions to an "and". All three of the conditions need to be met before an exemption should be granted. This would be consistent with the current Order, DOE O 251.1C.

**Response:**

*Accept*

**Major comment from Cecelia Kenney for Headquarters AU**

This Subparagraph is too broad. It should go without saying that any exemption granted by a Secretarial Officer is "warranted under the circumstances." Clarification is needed as to what is meant by this Subparagraph or it should be deleted. [AU-20]

**Response:**

*Accept*

Add a new Subparagraph that reads: "is not inconsistent with the primary goal and purpose of the directive." It needs to be clear that if a directive is applicable to the operations under the purview of a Secretarial Officer that the Secretarial Officer cannot simply exempt itself from the directive's core requirements, particularly in the area of nuclear safety or security. [AU-20]

**Response:**

*Accept*

**Suggested comment from Cecelia Kenney for Headquarters AU**

Clarify "undue risk" [AU-10]

**Response:**



*Accept with Modifications*

Removed language to be more clear.

#### **Suggested comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] This sentence states, "Organizations that grant equivalencies and exemptions to directives, including CRDs, must have a documented process in place and be able to provide that information upon request." The term, "that information" could refer to the "equivalencies and exemptions" that the organization granted, the documented process in place, or both.

[S] Clarify the term, "that information" in this sentence so it refers to the "equivalencies and exemptions" that the organization granted, the documented process in place, or both.

**Response:**

*Accept*

#### **Major comment from Cecelia Kenney for Headquarters AU**

The term "documented process" needs clarification. After the words "documented process" in this Subparagraph, insert the following: "for performing evaluation of proposed equivalencies and exemptions." [AU-20, AU-50]

**Response:**

*Accept*

#### **Suggested comment from Cecelia Kenney for Headquarters AU**

3. - There should be a requirement for the organizations that grant equivalencies and exemptions to directives to promulgate that information to their organization to ensure consistent application of the equivalency or exemption.

Add requirement for organizations that grant equivalencies and exemptions to directives to promulgate that information to their organization after approval and prior to implementation to ensure consistent application of the equivalency or exemption. [AU-50]

**Response:**

*Accept with Modifications*

Language added to Appendix A.3.

Change "Organizations" to Secretarial Officers. [AU-10]

**Response:**

*Accept*

### **DIRECTIVES TYPES**

#### **Major comment from Cecelia Kenney for Headquarters AU**

Remove all requirement statements from Appendix B. These requirements need to be in Section 4 of the main Order or Appendix C.

[AU-1, AU-30]

**Response:**

*Accept with Modifications*

#### **Major comment from Steve Duarte for Headquarters GC**

If requirements for contractors (e.g., M&O contractors) are necessary, they must be included in Attachment 1 called a contractor requirements document (CRD). Contractor requirements documents can only be used in contracts that have DEAR 970.5204-2, Laws, regulations, and DOE Directives, already included.

This language should be altered to reflect revisions provided by MA-611 regarding applicability of CRDs to contracts that do not include DEAR 970.5204-2.

**Response:**

*Accept*

#### **Included comments:**

**SME robin.henderson@hq.doe.gov**

Regarding 2.d., this comment on the Requirements section applies:

The previous version of the Order had the following paragraph:

"Duplication of Laws, Regulations, or National Standards. Departmental directives shall not duplicate or be inconsistent with applicable laws or regulations. To the extent possible, directives also should be written so that they are consistent with or incorporate widely accepted national standards." Para. 4.d(2).

The omitted language is a more accurate reflection of the law. The National Technology Transfer and Advancement Act of 1995 requires federal agencies to "use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments" unless compliance with this requirement "is inconsistent with applicable law or otherwise impractical." 15 USC 272 note.

The proposed deletion of the language from the previous version of the Order would make DOE's compliance with this statutory requirement unlikely. In addition, compliance with any particular national standard is not required unless invoked by a statute or regulation (or DOE directive), so the proposed language is confusing.

In addition, the NDAA for 2013 added a new statutory provision requiring the "Administrator [of NNSA] and the Secretary of Energy [to] ensure that the methods for assessing, certifying, and overseeing nuclear safety at [NNSA national security laboratories and the nuclear weapons production facilities; and EM defense nuclear facilities] use national and international standards and nuclear industry best practices, including probabilistic or quantitative risk assessment if sufficient data exist." 50 USC 2735. This new legal requirement should be reflected in the Requirements of DOE O 251.1D.

**Response:**

*Accept with Modifications*

Language removed since it is located in the requirements paragraph.

**Major comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME robert.vrooman@nnsa.doe.gov**

Item 2.e needs to be modified to allow the "how" to be included when it makes sense to do so, rather than as a requirement. It is not always necessary to specify the "how", nor is it always desirable or even possible to do so. Change "Detailed instructions for Federal employees describing how requirements are to be implemented must be included in appendices." to "Guidance for Federal employees describing how requirements may be met may be included in appendices."

**Response:**

*Accept with Modifications*

Language removed and can be found in Requirements paragraph.

**Suggested comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**Derek LaHouse for NA-Management and Budget**

## -->2. Orders.

**Are requirements documents developed and processed in the Departmental Directives Program, and approved by the Secretary or the Deputy Secretary.**

This should be changed to a statement not a question. Should be rewritten as "Requirements documents are developed and processed in the Departmental Directives Program, and approved by the Secretary or the Deputy Secretary."

**Response:**

*Accept*

**Major comment from Cecelia Kenney for Headquarters AU**

2.b. Revise to read: "If requirements for contractors are necessary, they are provided in Attachment 1 called a contractor requirements document (CRD)."

The requirements to restrict CRDs to M&O contracts and to contracts that use DEAR clause 970.5204-2 are not appropriate in this Appendix and must be removed. AU can not support a revision that restricts CRDs to only M&O contracts and to only contracts that use DEAR clause 970.5204-2. AU must have an ability to translate CRD safety, security, and classification requirements to all contractors to satisfy applicable laws and regulations. [AU-1, AU-50]

**Response:**

*Accept with Modifications*

2.d. Delete. Redundant see 4.a.(6) Requirement 4.a.(6) applies to all directives with requirements, not just Orders.[AU-1, AU-10, AU-50]

**Response:**

*Accept with Modifications*

Mentioned in Notice section as well. Paragraph 3.a.

Add the following: "Directives may provide specific references to requirements in applicable laws, regulations, or national standards so that users are aware of the existing of requirements and can find them easily." [AU-60]

**Response:**

*Reject*

This would go in the reference section to a directive. Not necessary to add.

2.e. Delete. This is redundant to 4.a.(7) and (8) and is related to format and content of Notices as well as Orders. This is not uniquely characteristic of an Order. [AU-1, AU-20, AU-50]

**Response:**

*Reject*

Mentioned in Notice section as well. Paragraph 3.a.

**Suggested comment from Cecelia Kenney for Headquarters AU**

2.b. Move this Subparagraph down to 2.e, so that all the Subparagraphs that apply to federal employees come first. For consistency, reword the first sentence of this Subparagraph to begin: "Where necessary, establish requirements for contractors (e.g., M&O contractors) in an Attachment 1 to be called a contractor requirements document (CRD)." [AU-20]

**Response:**

*Accept with Modifications*

Language removed since it is located in the requirements paragraph.

2.c. Move to (a). This is best summary and should be stated first. [AU-10]

**Response:**

*Accept*

**Major comment from Cecelia Kenney for Headquarters AU**

3.b. Revise to: "Revise within one year, unless the DRB approves an extension." The extension discussion in 3.c fits better here. [AU-1]

**Response:**

*Accept with Modifications*

Moved extension language to 3.b.

**Suggested comment from Cecelia Kenney for Headquarters AU**

3.c. Revise to: "May be converted to or incorporated into an Order before the Notice expires."

"This more clearly states the expected outcome without repeating the previous requirements." [AU-1, AU-50]

**Response:***Accept with Modifications***Suggested comment from Emily Mishoe for Headquarters NA****Included comments:****Derek LaHouse for NA-Management and Budget**

Change b. to: Are being phased out, and requirements and Responsibilities must be converted to or incorporated into Orders.

**Response:***Accept with Modifications***Suggested comment from Cecelia Kenney for Headquarters AU**

4.b. Revise to: "Are being phased out and are being converted to or incorporated into Orders, as appropriate. The DRB will not approve new Manuals but may approve limited changes or certifications of existing Manuals."

Revised to be consistent with the requirement from 251.C, current expectations, and DRB practice. [AU-1, AU-50]

**Major comment from Sara Frey for Western Area Power Administration**

This will cause some Orderst to be extremely large. The DOE Travel Manual as an example, is very good reference document and could be cumbersome if written as an order.

Western still uses manuals, such as the Safety Manual.

**Response:***Reject*

This decision was made by the DRB.

**Suggested comment from Emily Mishoe for Headquarters NA****Included comments:****SME nathan.morley@nnsa.doe.gov**

Identify whether Guides can or cannot be made mandatory (such as in Section 6 below for Technical Standards) in order to ensure that is clear to the DOE community.

**Response:***Reject*

No need for clarification since it won't be possible in the process.

**Suggested comment from Cecelia Kenney for Headquarters AU**

5.b. Revise to: "Do not impose requirements, but may quote requirements if the sources are adequately cited."

Removes misplaced requirement. [AU-1]

**Response:***Accept***Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 6. Technical Standards should be removed from this Appendix as a Directive Type since they are: (1) not a type of directive, (2) the directives program does not cover how they are processed, and (3) the Project Justification Statement justifying Technical Standards development or revision is also not a directive type. The Technical Standard Program has its own directive, DOE O 252.1A, that governs all aspects of the Technical Standards program.

Recommend removing all of Paragraph 6.

Technical standards should be discussed in this directive in Appendix C, Directives Process and in the Justification Memo section where it is necessary to state that a directive being developed or revised invokes a technical standard

**Response:***Accept with Modifications*

Added item to Justification Memo language and removed Tech Stds.

#### **Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 6. If Technical Standards are not included in the definition of a Directive, then they should not be listed as a directive type. Also, controls are needed to ensure that when an Order invokes a standard that the invocation is specific only to the revision of the standard that is in effect at the time of the Order.

**Response:**

*Accept*

#### **Major comment from Cecelia Kenney for Headquarters AU**

6.a. Revise to: "Are developed, approved, and maintained in accordance with the requirements of DOE O 252.1A and associated Technical Standards Program Procedures." [AU-1, AU-10, AU-30]

**Response:**

*Reject*

Removed TechStds from types.

### **DIRECTIVES PROCESS**

#### **Suggested comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME nathan.morley@nnsa.doe.gov**

Clarify in the appendix whether page changes and new revisions are to be treated the same as new directives, or describe the different processes for these actions.

**Response:**

*Reject*

#### **Major comment from Jennifer Kelley for Headquarters SC**

This is a major comment as it impacts the efficiency and effectiveness in carrying out the mission work of the Department: Having the Secretary or Deputy Secretary of Energy approve the use of an expedited process is too high in the organization for it to be expedited at all. The Department's stated intent is to push responsibilities and authorities down to the lowest practical level. We need to be practical on this. The DRB sets the timeframes for processing directives so they can certainly decide when to use an expedited process for a page change or other focused directive change. The final two sentences in this paragraph should be changed to: "The processing time for directives will be determined by the Directives Review Board. The DRB may approve an expedited process for page changes in order to implement directive modifications to a limited portion of requirements and/or responsibilities."

**Response:**

*Reject*

Timeframes are established by DRB Chair and recommended by DRB. Secretary or the Deputy Secretary may perform this action as well.

#### **Major comment from Cecelia Kenney for Headquarters AU**

There currently is not a process to notify the DOE-wide community when justification memoranda are presented to the DRB for consideration. Add a step to post the justification memoranda and to provide a DOE-wide notification (e.g., a RevCom information notice) of the justification memoranda. Such information notices is essential to inform the DOE community of directives that are under consideration for revision or development. [AU-1, AU-1.1]

**Response:**

*Reject*

Interested parties can choose to be notified about approved JMs through a website notification.

This Appendix starts with: "All directives have the same review and comment process as delineated in this Appendix."

However, it appears that a number of directives do NOT adhere to the same review. For example, Secretarial memos and administrative notices.

This needs to be clarified.

**Response:**

*Accept with Modifications*

Revised the language to be more consistent with current practice.

The process called out in Appendix C and Appendix D for Administrative changes does not support the Responsibilities of the Director, Office of Information Resources in 5.h (16): "Approves administrative changes."

Administrative changes should have a streamlined process for approval that is different than the process called out in Appendix C. A

150 day directives cycle for Admin changes due to (b) typographical errors; (c) nomenclature changes such as changes to organization names or title of officials; or (e) changes to legal citations is excessively long.

A recommended process could be:

Stage I - Justification Memorandum stating that the changes are administrative in nature for reasons b) c) and/or e). Redline/Strikeout showing the admin changes provided with the JM.

Stage II - DRB meeting - decision to go forward on changes. Non-concurrence by a DRB member would result in following Stage III through Stage VI of Appendix C.

Approval - Administrative changes are approved by Director, Office of Information Resources if there are no objections by DRB members during Stage II. [AU-1, AU-70]

**Response:**

*Accept with Modifications*

Added admin change in an appendix.

In first paragraph, it states, "The standard timeline for processing Orders and Guides is 150 calendar days." Change "standard" to "nominal." [AU-1, AU-20, AU-30, AU-50]

For clarity, revise last sentence to: "The Deputy Secretary may approve an expedited process for processing directives." [AU-1, AU-10, AU-20]

**Response:**

*Accept with Modifications*

Use of the word nominal goes against GC comment. Added last sentence, but included Secretary.

The schedules provided in the directives process are "one size fits all" and are not appropriate for most safety standards which require complex interactions with many representatives in the field (representatives for whom directives development is far from their first priority and who volunteer their time as it is available). As a result of these schedules OPIs are developing directives and ensuring the process is mature before submitting JMs. The result is a need to game the system.

**Response:**

*Reject*

The Justification Memo can request an extended timeframes for development.

**Major comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] This section states: "Identify issues that must be resolved or addressed, all conflicts with existing directives, and any impacts to other directives or Departmental functions or operations." There is no discussion on how conflicts with existing directives would be resolved. There is a Conforming Change Process section in DOE Order 251.1C that describes a process to resolve conflicts where changes to one directive affect other directives.

[S] Include a discussion on the process to resolve conflicts with other directives, when they are identified.

**Response:**

*Reject*

The responsibility lies with the DRB.

DNFSB Comments:

[C] In justifying the need for a directive and in light of the on-going efforts to improve safety culture throughout DOE, it would make sense to add safety and or safety improvements as one of the explicit rationales to cite in the justification memorandum.

The language in draft DOE Order 251.1D does mention "beneficial impacts," but it would be enhanced if a safety focus were acknowledged.

[S] Add clause that at least puts safety on par with cost.

**Response:**

*Accept*

Language added to Appendix C 1.c.(2)

**Major comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME nathan.morley@nnsa.doe.gov**

Appendix C 1. needs to include a section in the JUsTification Memorandum whether CTA concurrence is necessary as apart of the process.

**Response:**

*Reject*

It is already a responsibility of the OPI to consult CTAs if the directive is identified in DOE O 410.1.

**Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 1. The Justification Memo process can be challenging and has an extremely short time frame for review. Have the benefits of doing double reviews (JM and Draft) been compared to see if the JM process has been as beneficial toward saving the money on cutting out the development of directives that are not needed? Initially, JMs were set up to do just that so needless directives would not be developed, but JMs seem to not have curtailed any directives from being developed. To my knowledge no directives have been stopped through the JM process. If issues arise during the review of a JM where we think we will nonconcur, we are urged to contact the Office of Primary Interest to work out the issues prior to the DRB meeting where the JM will be presented, which appears somewhat to defeat the purpose of the JM.

While the idea is a good approach to saving money and stopping the development of a directive that isn't needed, has the JM process been as beneficial as it was planned to be? Directives development and working groups usually are already occurring prior to the Office of Primary Interest submitting a JM. This needs to be stopped. The whole purpose of a JM is to get approval of the directive being developed or revised prior to any action being taken.

For JMs to work effectively, prior work on the proposed directives needs to not occur until after the proposal by the JM is approved by the Directives Review Board.

Recommend adding a new sentence at the end of the second paragraph of paragraph 1 to state: "No work will begin on the new directive or revised directive until AFTER the Directives Review Board approves the JM proposing the action."

**Response:**

*Accept with Modifications*

Added to Appendix C, 1.c(5).

Paragraph 1a. The OPI should identify any national standards applicable to the scope of the directive, and what consideration has been applied to incorporation of the national standard(s). The current version of the justification memorandum for directives doesn't allow for incorporation by reference to national consensus standards, only a determination that there are no valid standards available.

**Response:**

*Reject*

Proposed language can be added to the JM template: "Writers must add either of the following statements to each JM:  
a) There are no valid external, consensus or other Standards (e.g., ISO, VPP, etc.) available which can be used in



place of this directive; or b) The following external standard(s) have been found to apply, and the content will be aligned and/or incorporated by reference to the extent practical: XXX. IMPACT: The proposed directive does not duplicate existing laws or regulations, but may be aligned with national standards. In either situation, it does not create undue burden on the Department."

When a technical standard is invoked by the directive that the JM is proposing action on, a new paragraph is needed here. Recommend adding new paragraph 1c(5) to state: "(5) Must state if the directive invokes a technical standard and add the number, title and date of the technical standard being invoked."

**Response:**

*Accept with Modifications*

Added to Appendix C, 1.c(4).

**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 1c. There is no requirement for preparing an Enterprise Risk Assessment (ERM) as part of the JM. Is the risk assessment no longer required?

**Response:**

*Reject*

**Major comment from Cecelia Kenney for Headquarters AU**

1.c.(4) Revise to: "Provide rationale for requesting an alternative timeline from the nominal processing time of 150 calendar days, if needed." [AU-1]

**Response:**

*Accept with Modifications*

**Suggested comment from Cecelia Kenney for Headquarters AU**

1.c.(2) To make this a reasonable application, change the word "possible" to "practical." [AU-50]

**Response:**

*Accept*

**Major comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] This section states: "DRB must reach consensus before recommending to the Chair, DRB, to approve the justification memorandum to develop or revise a directive." There is no discussion on what happens when a consensus is not reached in this section. There is an Impasse Process Section in DOE Order 251.1C for when the DRB fails to reach consensus. There is also an impasse process described in draft DOE Order 251.1D, Appendix C, Section 6.

[S] In Section 2 of Appendix C, include a discussion on the process that the DRB would use if it fails to reach consensus for justification memorandums, or refer to an impasse process.

**Response:**

*Accept with Modifications*

Clarified that Chair, DRB is responsible for facilitating consensus. Add: "If consensus cannot be reached by the DRB, the Chair, DRB, facilitates unresolved issues between the DRB members, the contending Secretarial Officers or designees. If the issues cannot be resolved, the Chair, DRB, makes the final determination." [App. C, 2]

**Major comment from Cecelia Kenney for Headquarters AU**

Add the following at the end: "Consensus is a process used to find the highest level of agreement without dividing the DRB members into factions. Every voting member supports, agrees to, or can accept a particular decision. In the end, every DRB member can say 'whether or not I prefer this decision above all others, I will support it because it was reached fairly and openly.' "

[AU-1, AU-20, AU-50]

**Response:***Accept with Modifications*

This is not a major comment. Consensus will be added to the definitions and added "All members of the group agree to support the decision."

**Major comment from Steve Duarte for Headquarters GC**

3.b. I think "nominally" means "slightly" or "a very small quantity or degree" This should probably be "normally"

**Response:***Accept***Major comment from Cecelia Kenney for Headquarters AU**

3.b. Beginning with the second sentence, reword this Subparagraph as follows: "If the DRB determines, after consultation with the OPI, that there has been a lack of activity on a draft directive for more than 90 days (e.g., no draft work products, no team meetings), the DRB will remove it from processing. If inactivity continues for another 15 days, the DRB will cancel the draft directive. The OPI must SUBMIT a new justification memorandum for a draft directive cancelled due to inactivity." [AU-10, AU-20. AU-30]

**Response:***Accept with Modifications*

Language revised to provide clarification.

**Major comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] This section does not require the OPI to engage the Central Technical Authorities (CTA) regarding directives listed in DOE Order 410.1, Attachment 2, *DOE Regulations and Directives (Latest Versions) Requiring CTA Concurrence Prior to Any Revision or Cancellation*. Page 9 of draft DOE Order 251.1D does list a responsibility for the CTA to, "Adhere to responsibilities of Central Technical Authorities related to the directives process as established in DOE Order 410.1, Central Technical Authority Responsibilities Regarding Nuclear Safety Requirements." However, there is no corresponding requirement in draft DOE Order 251.1D.

[S] Include a requirement for the OPI to engage the CTA regarding directives listed in DOE Order 410.1 A, Attachment 2.

**Response:***Accept with Modifications*

A responsibility was added for writers to engage CTAs for directives listed in O 410.1. [4.i.(5)]

**Major comment from Jennifer Kelley for Headquarters SC**

In order to effectively delineate the requirements in invoked technical standards to our contractors, language must be added to address that when the draft directive is being developed.

**Add NEW Paragraph 3d(6).** If a technical standard is invoked by a directive and is intended to be a requirement for the contractor, the technical standard must be included in the Contractor Requirements Document.

**Response:***Reject*

If a Technical Standard is invoked, it is a requirement. It is already a requirement that requirements for contractors must be placed in the CRD. This should be addressed in RevCom when reviewing a CRD.

**Suggested comment from Cecelia Kenney for Headquarters AU**

A new 3.d (6) should be added as follows, "(6) the OPI for any DOE Technical Standard being invoked in the directive." [AU-30]

**Response:***Accept with Modifications***Major comment from Bud Danielson for Headquarters CTA**

Include a requirement for the OPI to engage the Central Technical Authorities (CTA) regarding directives listed in DOE Order 410.1, Attachment 2, *DOE Regulations and Directives (Latest Versions) Requiring CTA Concurrence Prior to Any Revision or Cancellation*. Page 9 of draft DOE Order 251.1D does list a responsibility for the CTA to, "Adhere to responsibilities of Central Technical Authorities related to the directives process as established

in DOE Order 410.1, Central Technical Authority Responsibilities Regarding Nuclear Safety Requirements." However, there is no corresponding requirement in draft DOE Order 251.1D.

**Response:**

*Reject*

This responsibility is found on page 10 of DOE O 251.1D and in the OPI's responsibilities.

**Major comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] DOE Order 251.1C contains requirement 4.f.(4), which states, "Appendix D will be used for directives involving high risk functions, primarily those concerning nuclear facilities, as determined by the DRB. A list of directives meeting the criteria in Appendix D will be maintained by the DRB, including those directives addressing public health and safety in the construction, operation and decommissioning of a DOE defense nuclear facility, as defined in section 318 of the Atomic Energy Act." This requirement was deleted along with Appendix D, and it was replaced with the statement in Appendix C, 3.e, which states, "If revising a directive, a crosswalk of requirements must accompany the draft directive when requested by the DRB."

There is also a responsibility for "Directives Review Board Members" to "Recommend if the OPI must provide a crosswalk of requirements when revising a directive."

If any member of the DRB requests a crosswalk, the OPI should be *required* to provide a crosswalk of requirements. The way draft DOE Order 251.1D is currently written, the requirement for the OPI to provide a crosswalk is determined by a consensus of the DRB. In addition, the criteria contained in Appendix D of DOE Order 251.1C should be retained as guidance for the DRB to follow when determining when to request a crosswalk of requirements from the OPI.

[S] Revise Appendix C, Section 3.e. so that if any member of the DRB requests a crosswalk, the OPI is *required* to provide a crosswalk of requirements. In addition, retain the criteria contained in Appendix D of DOE Order 251.1C for the DRB to follow when determining when to request a crosswalk of requirements from the OPI.

**Response:**

*Accept with Modifications*

Responsibility that the writer must provide a crosswalk when requested by the DRB. [5.i.(7)]. Language in 251.1C was overly complex and only applied to limited scope of directives. Final determination if a crosswalk is needed is the responsibility of the DRB Chair. [5.d.(2)] Also added: "Requirements crosswalks are typically required for nuclear safety Orders and Notices." [Att. C, 3.e] No changes in current practices are anticipated..

**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 3e. It would be beneficial if a crosswalk would accompany each draft directive, not only on the directives that the DRB requests that crosswalks be provided.

**Response:**

*Reject*

The DRB can request a crosswalk from the OPI.

**Major comment from Cecelia Kenney for Headquarters AU**

Add the following: "A crosswalk for a directive revision identifies changes in requirements and the technical basis for these changes."

**Response:**

*Accept with Modifications*

Added to definitions.

**4. STAGE IV. REVIEW AND COMMENT**

**Suggested comment from Steve Duarte for Headquarters GC**

"The draft directive must be coordinated Department-wide using the online review and comment tool" I wish this were still true for Policies. Yes, I know that they can fall under the exceptions at the end of the sentence.

**Response:***Accept*

RevCom will be used to coordinate all directives.

**Major comment from Jennifer Kelley for Headquarters SC**

Paragraph 4a. Review time for facilities/contractors performing the work and directly affected by the requirements often have as little as 1-2 days for comment, more so, the window for comment sometimes falls over weekends or holidays.

Contractors/facilities require at least **10 business days** to fully vet the impact of requirements change and provide comment on how the requirements affect the respective missions of DOE facilities.

Adjust the timeline for contractor comment to at least 10 business days to ensure DOE facility input can be obtained and fully utilized in the Review and Comment phase.

**Response:***Accept with Modifications*

Extended timeframe to 15 calendar days for review and 15 for comment resolution.

Paragraph 4b. This process accounts for draft Standards that coincide with draft Directives. Existing Standards invoked into draft Directives require the same coordination process to ensure that their requirements are in the best interest of DOE.

**Response:***Reject*

MA-90 cannot require AU to coordinate an existing Technical Standard. Organizations may non-concur in RevCom with the invocation of the TechStd.

Paragraph 4b. Clarity and guidance are still lacking with regard to appropriate promulgation and implementation of technical standards that are invoked by an Order. Though invoked technical standards are now to be reviewed by the DRB, are subject to the RevCom process, and are to be regarded as mandatory requirements when invoked by an Order, it is still not clear how such standards are to be promulgated for review and implementation by contractors. Clarification is needed in DOE O 251.1D and in DOE O 252.1A to address this.

For clarification on how invoked technical standards are to be promulgated for review and implementation by contractors, we recommend the following language be added to Paragraph 4.b. in DOE O 251.1D: "The process for implementation of invoked technical standards for contractors is discussed in DOE O 252.1A, *Technical Standards Program*." The implementation language will also need to be added into DOE O 252.1A and its Contractor Requirements Document to address this issue.

**Response:***Accept with Modifications*

Added recommended language to Paragraph 4.b.: "The process for implementation of invoked technical standards for contractors is discussed in DOE O 252.1A, 'Technical Standards Program.'"

**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 4a. It is recommended that language be added to state:

"Each level of review must consolidate the comments of subordinate reviewers to permit program offices and sites to submit a single coordinated set of consolidated comments to the OPI. "

**Response:***Reject*

DPC responsibility to consolidate comments.

Paragraph 4b. Will MA-90 and the Technical Standards Office work together to ensure that there will be simultaneous reviews of draft Orders and invoked Tech Standards? To my knowledge, simultaneous coordination has only occurred once over the past several years. It is important both organizations collaborate, so SMEs can have the opportunity to review both documents at the same time and see how they impact the other.

**Response:***Reject*

That is the current practice for directives and invoked Tech Std draft review.

#### Major comment from Cecelia Kenney for Headquarters AU

4.b. Change "simultaneously" to "concurrently" [AU-1, AU-30]

**Response:**

*Accept*

Add a new 4.d: "DPCs must consolidate and streamline comments from subject matter experts and lower-level offices. The following types of comments must be eliminated: those which are pejorative, those which do not provide specific recommendations for changes, and all comments which are in conflict with other comments provided by the same DPC for the same draft directive." [AU-1, AU-50]

**Response:**

*Accept with Modifications*

Language revised in the DPC responsibility listed in paragraph 4.I.

4.c. Classified National Security Information (NSI) directives must be fully marked with the marking required for final documents when transmitted via email on classified system per 32 CFR §2001.23 *Classification marking in the electronic environment*.

Add: "Draft directives must be reviewed for classification and fully marked with the markings required for a final document when being transmitted via email on a classified system." [AU-50]

**Response:**

*Accept with Modifications*

#### Suggested comment from Emily Mishoe for Headquarters NA

**Included comments:**

**Sandee Greene for Savannah River Field Office**

Item a. "Respond to the comments..." - Need more detail relative to type of response, i.e., email, phone call, etc., or is the distribution of the comment resolution matrix sufficient.

**Response:**

*Reject*

#### Suggested comment from Steve Duarte for Headquarters GC

5.c and 6.a. We should revert to the original 251.c practice of posting the final in RevCom for concurrence.

**Response:**

*Reject*

#### Major comment from Emily Mishoe for Headquarters NA

**Included comments:**

**SME nathan.morley@nnsa.doe.gov**

Include the requirement for any CTA review and concurrence in this section.

**Response:**

*Reject*

Part of the DRB and NNSA process.

#### Major comment from Cecelia Kenney for Headquarters AU

Add the following to the end of the last sentence: ". . . as an attachment to an approval memorandum for the Secretary or Deputy Secretary." [AU-20]

**Response:**

*Reject*

This does not fit well in that location and provides no further clarity for the process.

**Suggested comment from Cecelia Kenney for Headquarters AU**

6.g. Editorial comment: change "their" to "its" [AU-20]

**Response:**

*Accept*

**Major comment from Bud Danielson for Headquarters CTA**

Written (via REVCOM or memorandum) concurrence of the CTAs must be obtained on the final version of the Directive, including any changes made by the DRB in steps 6.e. and 6.f. This is necessary to ensure the CTAs have been afforded an opportunity to review the final product (given the CTAs are not members of the DRB).

**Response:**

*Accept with Modifications*

Added to Appendix C. 5.c. CTAs can submit their concurrence to their appropriate DRB member.

**DIRECTIVES REVIEW: CERTIFICATION, CANCEL**

**Suggested comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME lynn.brownell@nnsa.doe.gov**

no checklist is available on the website

**Response:**

*Accept*

There will be a checklist prior to publication.

**Major comment from Cecelia Kenney for Headquarters AU**

Change "four" to "five." [AU-1]

**Response:**

*Accept*

**Major comment from Cecelia Kenney for Headquarters AU**

Change "four" to "five." [AU-1]

**Response:**

*Accept*

**Major comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME nathan.morley@nnsa.doe.gov**

Identify whether CTA involvement is needed as a part of cancellation.

**Response:**

*Reject*

CTAs have the chance to comment in RevCom.

**Major comment from Cecelia Kenney for Headquarters AU**

2(f) The Appendix does not address the process for resolving objections to cancellation. Add the following: "The DRB will determine path forward to achieve consensus or elevate impasse."

**Response:**

*Accept*

**Suggested comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**SME nathan.morley@nnsa.doe.gov**

Clarify whether this requirement is applicable for both page changes as well as total revisions, and whether a justification memorandum is required.

**Response:**

*Reject*

Duplicative.

## **POLICY MEMORANDA CONVERSION PROCESS**

### **Suggested comment from Emily Mishoe for Headquarters NA**

#### **Included comments:**

**SME anna.valdez@nnsa.doe.gov**

According to 4.a.(11), Policy Memoranda are to be reviewed at least every 4 years. Suggest incorporating the 4 year requirement into this section.

**Response:**

*Reject*

Duplicative.

### **Suggested comment from Jennifer Kelley for Headquarters SC**

In order to be consistent with the paragraph above Paragraph 1, the Secretary needs to be added in along with the Deputy Secretary for approval of memorandum cancellations in the first sentence of Paragraph 1.

**Response:**

*Accept*

### **Major comment from Emily Mishoe for Headquarters NA**

#### **Included comments:**

**SME nathan.morley@nnsa.doe.gov**

Identify whether CTA involvement is required when converting a memorandum.

**Response:**

*Reject*

The DRB determines the stakeholders. CTAs can consult with their DRB Rep.

### **Suggested comment from Emily Mishoe for Headquarters NA**

#### **Included comments:**

**SME nathan.morley@nnsa.doe.gov**

Clarify whether a Justification Memorandum is required for the cases where memoranda are to be converted.

**Response:**

*Accept*

See paragraph 3 on attachment.

### **Major comment from Cecelia Kenney for Headquarters AU**

The process described in Section 2 needs further consideration. There are multiple ways to convert a Policy memorandum into a DOE directive, including (1) a new Policy, (2) a new Order, or (3) a revised Order. The process described appears to only apply

to case (1) above. It may be appropriate for the DRB to recommend approval of a new Policy or limited Page Change to an Order without full DOE review; however this would not be appropriate for a new Order or major Order revision.

Appendix C clearly states: "All directives have the same review and comment process as delineated in this Appendix." This Appendix needs to clearly describe whether and how that process relates to the process described in this Appendix. [AU-1, AU-50]

**Response:**

*Accept*

See paragraph 3 on attachment

#### **Suggested comment from Cecelia Kenney for Headquarters AU**

2.g. Editorial comment: Insert the words "to a directive" between "the proposed conversion" and "for the Deputy Secretary's signature." [AU-20]

**Response:**

*Accept*

#### **UNAUTHORIZED DIRECTIVES**

##### **Major comment from Jennifer Kelley for Headquarters SC**

Any process that is defined in a proposed directive cannot create new requirements. If new requirements are created by any directive, those requirements must be evaluated through the directives process as defined by this Order. There should be no work around.

**Response:**

*Reject*

Programs can create internal procedures that apply only to that organization.

Supplemental directives and requirements are new directives. No. If someone needs to issue a requirement they need to go through the directives process.

**Response:**

*Reject*

Programs can create internal procedures that apply only to that organization.

#### **Suggested comment from Cecelia Kenney for Headquarters AU**

The first sentence says that "documents issued by the Secretary or Deputy Secretary" are "unauthorized directives." These documents are clearly included in Appendix B. Revise as follows:

"Unauthorized directives are documents that purport to apply on-going requirements (other than legal requirements) to more than one Departmental element and that have not been reviewed and promulgated through the processes described in this Order."

Also, revise Appendix C to describe the process that applies to Secretarial memos. Alternately, Appendix B could be revised to indicate that Appendix C does not apply to Secretarial memos. [AU-1]

**Response:**

*Accept with Modifications*

#### **Suggested comment from Cecelia Kenney for Headquarters AU**

2. Editorial comment: Reword this Subparagraph as follows: "Any DOE element can identify an unauthorized directive, forward it to the Office of Information Resources, and postpone implementation of its requirements until the unauthorized directive is processed through the Directives Program." [AU-20]

**Response:**

*Accept*

3, Editorial comment: Revise second sentence to: "The DRB will review the document, make a determination of its compliance with the directives program, and notify the OPI if it finds the directive to be unauthorized." [AU-20]



**Response:**  
*Accept*

#### **Suggested comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] This bullet states: "convert the document to a directive following one of the processes described in this Order," which implies that there is more than one process. Only one process is described in Appendix C of this Order.

[S] Change the bullet to: "convert the document to a directive following the process described in this Order."

**Response:**  
*Accept*

#### **Major comment from Jennifer Kelley for Headquarters SC**

Last paragraph. Add a statement that if a new requirement is issued without going through the proper directives process, the programs will notify the OPI (if known) and MA and wait for the requirement to go through the directives process in this Order prior to taking any further action.

**Response:**  
*Accept with Modifications*

Covered in Appendix F. 2.

#### **Suggested comment from Cecelia Kenney for Headquarters AU**

4. Revise to: "Headquarters and field elements are authorized to publish supplemental policies for use by those organization and their contractors, provided the supplemental policies do not contradict applicable laws and regulations, national standards that DOE has been directed to apply, or any applicable DOE Order or Notice. Supplemental directives may provide specific references to requirements in applicable laws, regulations, national standards, or directives so that users are aware of the existing requirements and can find them easily." [AU-60]

**Response:**  
*Reject*

### **DEFINITIONS**

#### **Suggested comment from Jennifer Kelley for Headquarters SC**

Include a definition on technical standard so the information within the Order on the correlating process between the directive invoking a technical standard and the technical standard it invokes, (when this occurs), would be more easily understood.

Recommend adding the following definition as described in DOE O 252.1A, *Technical Standards Program*:

#### **Technical Standards:**

Official communications developed as needed to provide specific standardized approaches, methodologies, technical criteria, or other information on accomplishing a task, developing a plan, and/or performing a calculation or assessment to implement a DOE requirement.

**Response:**  
*Accept with Modifications*

AU provided the definition.

Add definition for "Invoked Technical Standards."

**Response:**  
*Accept*

Add a definition for "Secretarial Memoranda."

**Response:**

*Reject***Major comment from Cecelia Kenney for Headquarters AU**

The Directive does not address the use and approval of "Administrative Notices," such as those used to cancel directives. The Directive is incomplete without clearly acknowledging and describing the role of these Administrative Notices. These notices differ from other Departmental Notices because the DRB does not determine the processing time of such notices, as described in Appendix C. By clearly acknowledging and describing the role of these Administrative Notices in this Directive, this empowers MA-1 and Deputy Secretary and removes any questions about them being rouge directives.

Define these notices, and provide appropriate description in the Directive regarding when these notices are used, how they are used, how they are processed, and who may approve them. [AU-1]

**Response:***Accept with Modifications*

Removed these notifications as a type of Notice. They will become Directives Program Notifications issued by MA-90 after the Deputy Secretary has approved an action.

Either clarify or delete "(a) corrections of omissions up to one year ....."

**Response:***Accept*

The following terms require a definition: "Crosswalk," "Financial Impact Analysis," and "Performance-Based Management Goals, Consensus."  
[AU-20]

**Response:***Accept***Major comment from Cecelia Kenney for Headquarters AU**

G.3. The draft Order defines communication plan as: "A document included with the directive's final draft package that describes how training and/or any other activities will be accomplished in order to effectively implement the directive and is reviewed six months after directive approval."

Effective implementation is the responsibility of the line managers, not the OPIs. Also, the final phrase is not definitional.

Revise to the following: "A document included with the directive's final draft package that identifies and describes how training and/or any other roll-out activities performed by the OPI will be accomplished to support effective implementation of the directive." [AU-1, AU-50]

**Response:***Accept***Suggested comment from Emily Mishoe for Headquarters NA****Included comments:****Sandee Greene for Savannah River Field Office**

Provide a link to the Correspondence Style Guide versus reference. If the Style Guide is the official document for documenting Departmental Elements, the guide should be part of the Directives system.

**Response:***Reject***Suggested comment from Emily Mishoe for Headquarters NA****Included comments:****SME lynn.brownell@nnsa.doe.gov**

10. change DOE O 251.1C to just DOE O 251.1 since version C is being cancelled.

**Response:***Accept***Major comment from Cecelia Kenney for Headquarters AU**

10. For consistency, reword the beginning of the final sentence of this definition as follows: "Non-voting, advisory members include senior . . ." [AU-20]

**Response:**

*Accept with Modifications*

**Major comment from Steven Petras for HSS-DR-DNFSB**

DNFSB Comments:

[C] The stated definition for Justification Memorandum is: "A document used to justify developing or revising a directive." However, a Justification Memorandum can also be used to cancel a directive.

[S] Change the definition to: "A document used to justify developing, revising, or cancelling a directive."

**Response:**

*Accept*

**Suggested comment from Cecelia Kenney for Headquarters AU**

16. Delete the word "International." International standards are not discussed in this Order. [AU-20]

**Response:**

*Accept*

**Major comment from Cecelia Kenney for Headquarters AU**

18. Draft revision states:

"Page Change. When a directive is modified to affect a limited portion of the requirements and/or responsibilities as determined by the Office of Information Resources. The review for a page change is limited to only the changed portions of the draft directive."

Delete words "as determined by the Office of Information Resources" - this is a responsibility, not part of a definition.

Revise to:

"Page Change. When a directive modification is restricted to a limited portion of the directive. The review for a page change is limited to only the changed portions of the directive." [AU-1, AU-20]

**Response:**

*Accept with Modifications*

**Suggested comment from Cecelia Kenney for Headquarters AU**

23. Insert "pursuant to a directive" after "performed" and before "to fulfill" and delete "law or regulations" at the end of the sentence. This definition only applies to DOE O 251.1D, and it should be made clear that requirements in directives are not the only activities "that must be performed to fulfill the Department's mission." [AU-20]

**Response:**

*Accept*

**Suggested comment from Emily Mishoe for Headquarters NA**

**Included comments:**

**Derek LaHouse for NA-Management and Budget**

Deputy Administrators are NOT Secretarial Officers. The NNSA Administrator is the only NNSA Secretarial Officer.

**Response:**

*Accept*